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The Commonwealth of Massachusetts

THE CONSTITUTIONAL CONVENTION 1917

BULLETIN No. 6

THE INITIATIVE AND REFERENDUM

SUBMITTED TO THE CONSTITUTIONAL CONVENTION BY THE COM-
MISSION TO COMPILE INFORMATION AND DATA FOR THE
USE OF THE CONSTITUTIONAL CONVENTION

BOSTON
WRIGHT & POTTER PRINTING CO., STATE PRINTERS
32 DERNE STREET

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THE COMMONWEALTH OF MASSACHUSETTS

COMMISSION TO COMPILE INFORMATION AND DATA

FOR THE USE OF THE

CONSTITUTIONAL CONVENTION

ROOM 426, STATE HOUSE

BOSTON



THE COMMISSION

WILLIAM B. MUNRO, CHAIRMAN

LAWRENCE B. EVANS, VICE CHAIRMAN

ROGER SHERMAN HOAR

HENRY WARD BIRD, SECRETARY

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THE INITIATIVE AND REFERENDUM.

During the past twenty years more than a score of the States of the Union have been making trial of Direct Legislation — the enacting, annulling or ratifying of laws by the vote of the electors — under forms of the Initiative and Referendum.

DEFINITIONS.

The Initiative is a device, by which any person or group of persons may draft a statute, or constitutional amendment, and, by securing to a petition the signatures of the requisite number of qualified voters, may require the State officials (with or without action upon it by the Legislature) to submit the measure to the electorate at a general or special election; if it is approved by the required majority, it becomes a law.

The Referendum is a device whereby a measure, already drafted and approved by a representative Legislature or constitutional convention, is held in suspense until it shall have been submitted to the voters at a general or special election, there to be ratified or rejected by majority vote.

The intent of the Initiative is positive, — to secure the enactment of some measure which the Legislature has ignored or failed to pass; the intent of most forms of the referendum, on the other hand, is negative, — to superpose a popular veto upon an enactment already passed by the Legislature.

FORMS OF THE INITIATIVE.

1. Under the Direct Initiative, on the filing of a petition signed by the requisite number of qualified voters, the proposed constitutional amendment or draft of a law, without any action having been taken upon it by the representative Legislature, must be placed upon the ballot at the next election.

2. Under the Indirect Initiative, the filing of a petition with the requisite number of signatures necessitates the measure's being first reported to the Legislature, which may enact it forthwith, or transmit it to the electors, or accompany it by a substitute measure, framed by the Legislature.

3. The Advisory Initiative is a name sometimes applied to the method of promoting legislation upon a given question by submitting it to the voters, and requiring that there be transmitted to the members of the Legislature the result of these votings, as a more or less weighty expression of public opinion upon the matter under consideration. (See Bulletin No. 7, The Public Opinion Law in Massachusetts.)

FORMS OF THE REFERENDUM.

The Referendum may be either Compulsory or Optional. The Compulsory Referendum finds its most important illustration in the case of American State Constitutions and amendments thereto. In nearly all of the States it is required that these be subjected for ratification to a popular vote, before they can become law.

Under the Optional Referendum, the popular vote upon the measure in question is brought about by no requirement of the fundamental law, but by the Legislature's general or special grant of this freedom of choice. The following forms of Referendum have come into wide use in American States:

1. The Legislature may refer a special question to the voters for their decision. Thus, five times since the adoption of the present Constitution, the General Court referred to the voters the question of the expediency of holding a constitutional convention, and in 1895 the voters were called upon to express their opinion as to the expediency of granting municipal suffrage to women.

2. The Legislature may refer to the people for their rejection or approval at the polls any act or resolve of the Legislature, or any part thereof. (This form of Referendum was expressly authorized for the Massachusetts General Court by the forty-second Article of Amendment, ratified November 4, 1913.)

3. The Legislature may grant to all local political units of the State the privilege of determining by popular vote the form in which the police power as to certain matters shall be exercised under general law. Thus "local option" each year decides the method by which the liquor traffic shall be regulated in the cities and towns of Massachusetts.

4. By general law, the Legislature may authorize the local unit to adopt for itself certain regulations as to the public

employment of labor (*e.g.*, in regard to hours, wages, pensions, etc.).

5. Under general law, the Legislature may accord to the individual town or city a considerable range of choice as to its own form of government. Under the law of 1915, the voters of a Massachusetts city by their own choice at the polls may secure for themselves any one of the four standard forms of city charter, without going to the Legislature for a special enactment.

6. When a Legislature passes an act granting a charter to a given city, or amending a charter, or enacting other legislation pertaining to a given municipality, its going into effect is usually made conditional upon its being accepted by a majority vote in the city to which it is to apply.

7. The Statutory Referendum has come into prominence in American States during the last twenty years, and it is to this form that the word "Referendum" is now ordinarily applied. Under this Statutory Referendum, upon petition of a certain number of qualified voters, any act of the Legislature (with certain exceptions) must be referred to the electorate to be approved or annulled by majority vote at the polls.

THE DEVELOPMENT OF THE INITIATIVE AND REFERENDUM.

The Initiative and Referendum are often spoken of as novel exotics, imported from Switzerland and first finding American soil congenial for their growth in the States of the Far West.

Direct Legislation, prevalent in the Swiss cantons for many centuries in the primitive *landsgemeinde*, underwent developments in the last quarter of the nineteenth century which attracted keen interest in all countries of democratic ideals. The Compulsory Referendum was made applicable to all changes in a Swiss constitution, whether federal or cantonal. In some form or other the change must be submitted to a popular vote. To other laws the Optional Referendum is applied by the Confederation and by about half the cantons; about as many cantons use the Compulsory Referendum; in only one are these laws subjected to no Referendum at all.

In two cantons the Initiative was introduced as early as the middle of the past century; it was taken up so rapidly that by 1900 it was to be found in every canton but one. In 1891 it

was made applicable to amendments to the Federal Constitution, but it does not apply to the Confederation's ordinary laws.¹

South Dakota, 1898, was the first American State to adopt a constitutional amendment providing for the introduction of the Initiative and Referendum on the Swiss model, and the next five States to follow her example were States of the Far West.

Yet two hundred and fifty years before South Dakota adopted this Swiss "novelty," the Puritans of the Massachusetts Bay Colony were experimenting with simple forms of the Initiative and Referendum, and almost every present-day variety of these devices finds interesting analogue if not distinct precedent in the practice of the founders of this Commonwealth.

Thus, in 1635, on demand of the Deputies, the General Court ordered that certain men should be appointed "to frame a body of grounds of laws in resemblance to a Magna Charta, which, being allowed by some of the ministers and the General Court, should be received for fundamental laws." (Winthrop, I, 191.) Two years later, alleging that the lack of written laws had led to "many doubts and much trouble," the General Court ordered that "the freemen of every town should assemble together in their several towns, and collect the heads of such necessary and fundamental laws as may be suitable." The "heads" so collected were to be delivered in writing to the Governor, and reduced to a "compendious abridgment to be presented to the General Court for confirmation or rejection." The records of Charlestown show that Mr. Jno. Harvard, with five others, was chosen, April 26, 1638, "to consider of some things tending towards a body of Lawes." In November, 1639, the General Court passed an order, instructing a joint committee of Magistrates and Deputies "to peruse all these models which have been or shall be further presented concerning a form of government and laws to be established," and to "draw the models up into one body" and "take order that the same shall be copied out and sent to the several towns, that the Elders of the churches and the freemen may consider of them against the next General Court." The records of the General Court of October 7, 1641, refer to "Capital Laws, to be transcribed and

¹ For the working of the Initiative and Referendum in Switzerland, see A. L. Lowell, *Public Opinion and Popular Government*; W. E. Rappard, in *Annals of American Academy of Political and Social Science*, September, 1912.

sent to the several towns." Final action was taken by the General Court on December 10, 1641, when "the bodye of laws formerly sent forth among the Freemen was voted to stand in force." The Body of Liberties was not a mere collection of statutes; it partook of the nature of a bill of rights and a frame of government as well. From the inception of the work, the initiating suggestions of the freemen were sought; the "models" were sent to the several towns that the freemen might "consider of them against the next General Court"; the final draft of the "Capital Laws" was "sent forth among the Freemen", and the record of the General Court's last action in the matter sounds like little else than the proclamation of the result of that referendum.

Six years later (November 11, 1647), the General Court passed an act limiting the number of Deputies to one from each town; but on the same day suspended the act, "being desirous to know the mind of the country herein", and ordered that "a copy of this order shall be sent to the constable of every town who shall call the freemen together and acquaint them herewith that they may declare their minds herein." The records of the General Court for the following March contain this entry: "The most of the freemen desiring their former liberty of sending one or two deputies to the General Court, the former wonted liberty is continued and the former act repealed."¹

The records afford many evidences that the referendum served as an influential factor in transforming the Company of Massachusetts Bay into the Commonwealth of Massachusetts Bay. Whenever the voters of Massachusetts have been free to express themselves on constitutional questions and the times have demanded it, the General Court has had recourse to a referendum. Instituted in 1639 as a means of finding out what kind of a "Body of grounds of laws in resemblance to a Magna Charta" the Freemen wished to have adopted in response to the demands they had made, it has often been appealed to, particularly in times of uncertainty and excitement, as in 1685, 1689, and 1776-1780. Accordingly, the Constitution of the

¹ The above paragraphs in regard to early Massachusetts experience with Direct Legislation consist of almost verbatim excerpts from *Referenda in Massachusetts, 1639-1912*, an unpublished paper by Dr. Edward M. Hartwell, Secretary of Statistics Department, Boston.

Commonwealth since 1641, except during the Andros and Provincial periods, has embodied the "people's law" as evoked by referenda.

THE INTRODUCTION OF THE STATE-WIDE INITIATIVE AND REFERENDUM.

The following table shows the dates at which the several States adopted the Initiative and Referendum, and the popular vote for and against the constitution or amendment by which they were adopted. It should be noted that the constitutional amendments in Utah and Idaho and partly in North Dakota were not self-executing; their becoming effective was made dependent upon statutory action by the Legislatures. At the 1917 session the Utah Legislature enacted the requisite statute; the Idaho and North Dakota Legislatures have taken no action.

Progress and Status of the State-wide Initiative and Referendum.¹

[Total 21 States, February, 1917.]

Date of Adoption.	STATE.	POPULAR VOTE ON AMENDMENT.	
		For.	Against.
1898	South Dakota,	23,816	16,483
1900	Utah,	19,219	7,786
1902	Oregon,	62,024	5,668
1905	Nevada [referendum only],	4,393	792
1906	Montana,	36,374	6,616
1907	Oklahoma,	180,333	73,059
1908	Maine,	53,785	24,543
1908	Missouri,	177,615	147,290
1910	Arkansas,	91,367	39,111
1910	Colorado,	89,141	28,696
1911	Arizona,	12,187	3,822
1911	New Mexico (referendum only),	31,742	13,399
1911	California,	138,181	44,850
1912	Nebraska,	189,200	15,315
1912	Washington,	110,110	43,905
1912	Idaho,	43,658	13,490
1912	Ohio,	312,692	231,312
1912	Nevada (adds initiative),	9,956	1,027
1913	Michigan,	219,388	152,038
1914	North Dakota,	48,783	19,964
1914	Mississippi,	19,118	8,718
1915	Maryland (referendum only),	51,880	24,659

¹ This table is reprinted from "The State-wide Initiative and Referendum," by Judson King. (64th Congress, 2d Session, Senate Document No. 736.)

THE INITIATIVE.

Beginning with South Dakota, in 1898, the State-wide Initiative, in one form or another, has now been adopted in seventeen States. Under the Direct Initiative the proposed measure is submitted directly to the electors. Under the Indirect Initiative the measure goes first to the Legislature, but must be submitted to the electors unless enacted without change by the Legislature. Their form of Initiative, and the percentage or number of voters' signatures necessary to invoke it, are shown in the following table:

Year.	STATE.	Initiative on Statutes.	Initiative on Constitutional Amendments.
1898	South Dakota, . . .	5 per cent, indirect.	None.
1902	Oregon, . . .	8 per cent, direct.	8 per cent, direct.
1906	Montana, . . .	8 per cent, direct.	None.
1907	Oklahoma, . . .	8 per cent, direct.	15 per cent, direct.
1908	Maine, . . .	12,000, indirect.	None.
1908	Michigan, . . .	(See 1913.)	20 per cent, indirect. (See 1913.)
1908	Missouri, . . .	8 per cent, direct. ¹	8 per cent, direct. ¹
1910	Arkansas, . . .	8 per cent, direct.	8 per cent, direct.
1910	Colorado, . . .	8 per cent, direct.	8 per cent, direct.
1911	Arizona, . . .	10 per cent, direct.	15 per cent, direct.
1911	California, . . .	5 per cent, indirect, 8 per cent, direct.	8 per cent, direct.
1912	Ohio, . . .	3 per cent, indirect, 6 per cent, direct.	10 per cent, direct.
1912	Nebraska, . . .	10 per cent, direct.	15 per cent, direct.
1912	Nevada, . . .	10 per cent, indirect.	10 per cent, indirect.
1912	Washington, . . .	10 per cent, direct and indirect.	None.
1913	Michigan, . . .	8 per cent, indirect.	10 per cent, direct.
1914	Mississippi, . . .	7,500, direct.	7,500, direct.
1915	North Dakota, . . .	10 per cent, indirect.	25 per cent, indirect.
1917	Utah, . . .	5 per cent, indirect, 10 per cent, direct.	5 per cent, indirect, 10 per cent, direct.

¹ The maximum named in the Constitution. Five per cent has been adopted by statute.

THE INITIATIVE ON CONSTITUTIONAL AMENDMENTS.

The Direct Initiative is now in use by ten States in application to constitutional amendments. When once the proposed amendment has been filed, backed by a petition containing the requisite number of signatures, it must be submitted to the voters at the polls for the final verdict. The number of signatures in all of the States is gauged as a percentage, usually of the "legal voters", — a higher percentage being required in most States in the case of amendments to the Constitution than

in the case of ordinary statutes. Missouri requires but 5 per cent; Arkansas, California, Colorado and Oregon insist upon 8 per cent; Ohio and Michigan call for 10 per cent; while Arizona, Nebraska and Oklahoma exact 15 per cent. At the last general election in Massachusetts, 1916, the number of registered voters in the Commonwealth was 650,882, of whom 557,499 (or 85.5 per cent) voted for the candidates for Governor. If in Massachusetts the above percentages should be required in securing signatures upon Initiative petitions (reckoning the percentage upon the number of registered voters), the results would be as follows: 5 per cent, 32,544; 8 per cent, 52,070; 10 per cent, 65,088; 15 per cent, 97,632.

There is variety in the requirements as to the interval which must come between the filing of the petition and the date of the election at which the initiated amendment is to be voted upon, — the next regular general election, unless some special election is called by the Legislature (Arizona) or by the Governor (California). In Nevada the petition must have been filed not less than thirty days before a regular session of the Legislature. The other States allow a longer interval for deliberation. (California and Ohio, three months; Nebraska and Michigan, four months; and North Dakota, six months.)

For the adoption of an amendment thus initiated a majority of those voting thereon is all that is required by Arizona, Michigan, Nevada and Ohio. North Dakota and Oklahoma insist upon a majority of the votes cast at that election.

Nevada and North Dakota make use of the Indirect Initiative in the case of constitutional amendments. In Nevada the procedure does not differ materially from that applied to ordinary statutes. In North Dakota, while the initiated measure is brought from the petitioners directly to the people, it is insisted that after a proposed amendment has been approved by a majority of legal votes cast at a general election, it shall then be referred to the next Legislature; if a majority of all the members elected to each house shall agree upon it, the amendment becomes a part of the Constitution, but if it fails to secure such approval from the Legislature, it must again be referred to the electors at the next general election; and if it then (for the second time) receives a majority of all the legal

votes cast at that election, it at once becomes a part of the Constitution. In this State, no amendment proposed by initiative petition and failing of adoption shall be considered again until the expiration of six years.

In the constitutions of several States the initiative process is presented simply as an optional method of amending. Nebraska explicitly states that the initiative process of proposing and adopting constitutional amendments shall be supplementary to and in no case construed to be in conflict with the method earlier prescribed for amending her Constitution. In fact the two methods are being employed side by side, at the same time. The following table shows the number of amendments which had been proposed by the two processes in the States which still employ both, which were voted on at the general elections of 1914 and 1916:

Initiative v. Legislative Constitutional Amendments.

STATE.	Character of Amendment.	1914.			1916.		
		Total.	Adopted.	Rejected.	Total.	Adopted.	Rejected.
Arizona, . .	Initiative, . .	2	2	—	5	1	4
	Legislative, . .	3	—	3	2	—	2
Arkansas, . .	Initiative, . .	1	1	—	1	—	1
	Legislative, . .	2	1	1	2	2	—
California, . .	Initiative, . .	8	3	5	4	1	3
	Legislative, . .	22	15	7	—	—	—
Colorado, . .	Initiative, . .	8	2	6	2	—	2
	Legislative, . .	3	1	2	—	—	—
Michigan, . .	Initiative, . .	1	—	1	3	1	2
	Legislative, . .	3	1	2	1	1	0
Missouri, . .	Initiative, . .	3	—	3	2	—	2
	Legislative, . .	8	—	8	1	1	—
Nebraska, . .	Initiative, . .	1	—	1	2	1	1
	Legislative, . .	3	3	—	—	—	—
Nevada, . .	Initiative, . .	—	—	—	—	—	—
	Legislative, . .	2	2	—	2	2	—
Ohio, . .	Initiative, . .	4	1	3	3 ¹	—	3 ¹
	Legislative, . .	—	—	—	1 ¹	—	1 ¹
Oklahoma, . .	Initiative, . .	4	—	4	2	—	2
	Legislative, . .	—	—	—	9	—	9
Oregon, . .	Initiative, . .	13	2	11	4	3	1
	Legislative, . .	8	2	6	3	2	1

¹ 1915.

THE INITIATIVE ON ORDINARY LAWS, OR THE STATUTORY INITIATIVE.

In substantially identical words the constitutions of more than a dozen States assert that the power is reserved to the people to propose laws and to enact the same at the polls, independent of the Legislature. Twelve States make the Initiative applicable both to laws and constitutional amendments, while six apply it only to ordinary laws. (Idaho, Maine, Montana, South Dakota, Utah and Washington.) In but four of the States are substantial limitations placed upon the Initiative's scope. In Michigan and Nebraska the same limitations prescribed by the Constitution as to the powers of the Legislature are held to apply to the powers of the people in enacting laws. In Montana the Initiative is declared not to be applicable to measures relating to the appropriation of money, to the submission of constitutional amendments, and to local and special laws as enumerated in the Constitution.

The Indirect Statutory Initiative.

In the eight States which have the indirect statutory Initiative, the percentage or number of petition signatures required in general ranges somewhat lower than in the States where the initiated measures are to be transmitted directly to the voters, without passing through the hands of the Legislature. The requirements are as follows: Ohio, 3 per cent; California, 5 per cent; South Dakota, not more than 5 per cent; Michigan, at least 8 per cent; North Dakota, at least 10 per cent; Nevada, not more than 10 per cent; Washington, 10 per cent, but in no case more than 50,000 of legal voters; Maine, not less than 12,000 electors. North Dakota stipulates that the signatures of at least 10 per cent of the legal voters be secured in a majority of the counties of the State, and Ohio requires that each of one-half of the counties shall furnish as signers $1\frac{1}{2}$ per cent of its voters. Four States (Michigan, Ohio, California and Washington) require that the initiative petition be filed at least ten days before the commencement of the session at which it is to be acted upon; Nevada and North Dakota require an interval of at least thirty days. Maine, on the other

hand, permits the filing of the petition at least thirty days before the close of the session.

The States differ greatly in the part which they assign to the legislatures in connection with the Initiative. South Dakota, the first State to introduce the Initiative, requires that the Legislature "shall enact and submit to a vote of the electors of the State" any measure which has been duly proposed by initiative petition; no discretion nor option is allowed.¹ In three States (Nevada, North Dakota and Washington) precedence is given to initiated measures over all other measures before the Legislature, with the exception of appropriation bills. Six States (California, Maine, Michigan, Nevada, North Dakota and Washington) require that the initiative measures shall be enacted or rejected without amendment by the Legislature. Washington stipulates that the enactment or rejection must be accomplished before the end of the regular session; Ohio makes the time limit four months, while four States allow but forty days for such action. (Michigan, California, Nevada and North Dakota. In the last three States the Legislature's session is limited to sixty days.)

Merely because a measure has been brought before the Legislature by initiative petition signed by a certain percentage of the legal votes, and has been enacted by the Legislature, it is not to be assumed that the measure is without fault, or that it embodies a determined public opinion. Hence seven States explicitly provide that any initiative measure thus enacted shall still be subject to the Referendum. (California, Maine, Michigan, North Dakota, Washington, Nevada and Ohio.) In two States (North Dakota and Washington) the Legislature itself, after having enacted the measure, may refer it to the electors for their verdict. In Maine the Governor may veto an initiative measure, and if his veto is not overridden by the Legislature, the measure must be referred to the people at the next general election. If an initiative measure is rejected, or if no action is taken upon it within the prescribed time, six States (California, Maine, Michigan, Nevada, North Dakota and Washington) require that the Secretary of State submit the measure to the

¹ In 1908 a primary election act was initiated by the requisite number of petitioners but the Senate refused to obey the mandate of the Initiative and the bill was not submitted to the voters.

people. Ohio makes such submission conditional upon the filing of a supplementary petition with signatures of three per cent of the electors in addition to the number on the original petition.

In their use of the Indirect Statutory Initiative, however, six States accord to the Legislature a far more important rôle than merely to hand on to the voters the petitioners' measure, with or without the Legislature's approval. The Initiative affords a method of securing the enactment or rejection of some proposal which in the opinion of the petitioners the Legislature would otherwise ignore or defeat. But the procedure outlined above gives no assurance, in itself, that the initiative measure will be well drafted, nor does it present any opportunity for amendment or modification, after once the proposal has been phrased upon the petition blanks. The two functions of subjecting the merits of a proposal to searching investigation and debate and of amending it into precise and effective form are the very functions for which the procedure of a legislative assembly is well adapted, provided the assembly is so manned and organized as to put its best efforts upon the task. It is with the intention of securing the Legislature's co-operation along these lines that six States (Maine, California, Washington, Michigan, Nevada and North Dakota), in substantially identical language, provide that any initiative measure not enacted by the Legislature shall be submitted to the electors together with any amended form, substitute or recommendation of the Legislature, and in such manner that the people can choose between the competing measures or reject both. Theoretically, this opportunity should put the Legislature upon its mettle, and incite that representative body, by the thoroughness of its investigation and by the expertness of its draftsmanship, to justify itself in the eyes of the electors by submitting for their approval a model measure. In the six States mentioned, the introduction of the Initiative is of so recent a date that as yet no experience is available for making this direct comparison as to the quality and form of initiative and legislative measures.

With the object of retaining the advantages gained from severe criticism, a novel form of the Initiative has been set forth in a proposed constitutional amendment in Wisconsin.

It provided: "A proposed law shall be recited in full in the petition, and shall consist of a bill which has been introduced in the Legislature during the first thirty legislative days of the session, as so introduced; or, at the option of the petitioners, there may be incorporated in said bill any amendment or amendments introduced in the Legislature." Inasmuch as any member of the Legislature, under this proposed law, would have the right to present any bill or amendment, this would not be likely seriously to impede the securing of needed legislation, but it would assure an opportunity for expert study of a proposal and for such searching criticism as led, for example, to the complete redrafting twenty different times of the Wisconsin railroad commission bill.

The Direct Statutory Initiative.

In nine States measures proposed by initiative petition may be placed before the voters, without any action having been taken upon them by the Legislature. Five of these States (Arkansas, Colorado, Oregon, Missouri and Montana) require that the petitions shall be signed by eight per cent of the State's legal voters. California and Oklahoma and some of the other States use the aggregate vote cast for all candidates for the highest State office at the preceding election as the basis for computing these percentages. Arizona, Nebraska and Washington require the signatures of ten per cent of the qualified electors, and Missouri, Montana and Nebraska each insist that the petitioners shall be so distributed as to represent a demand for the measure in a large proportion of the counties or districts in the State. Washington sets a fixed maximum requirement, — "in no case more than 50,000 of legal voters."

Majority Required for the Adoption of a Measure.

In most of the States using the Initiative in one form or another, the proposed measure is adopted by a mere majority of those voting *thereon*. Nebraska insists that such majority shall equal thirty-five per cent of the total vote cast at that election. Oklahoma requires approval by a majority of "all votes cast in such election." As a result, in the single election of November 3, 1914, when four initiative constitutional amend-

ments were placed before the people, although they were approved by majorities ranging from 22,894 to 60,555, not one of them was adopted; in one case the favoring vote was nearly 2 to 1 (117,675 to 57,120). In Idaho the explicit requirement of her Constitution — not yet made effective by statute — is a majority of the aggregate vote cast for the candidates for Governor at the general election.

Amendment or Repeal of Initiative Measures adopted by the Electors.

What power shall the Legislature have to amend or repeal a law which has been enacted not by the Legislature but by the electors? Nevada merely gives to such laws three years' immunity, by providing that during that period they shall not be annulled, set aside or repealed. Both California and Michigan provide that no act or law adopted under the Initiative shall be amended (or repealed, Michigan adds) except by vote of the electors, unless otherwise provided in such initiative measure; but in Michigan the Legislature is authorized to propose amendments, alterations or repeals to the people.

Resubmission of Rejected Measures.

To prevent the wearing out of the voters' patience by the importunity of a small group of persistent initiative petition-signers, Nebraska provides that the same measure either in form or in essential substance shall not be submitted to the people by initiative petition (either affirmatively or negatively) oftener than once in three years.

THE REFERENDUM.

THE COMPULSORY REFERENDUM ON CONSTITUTIONAL AMENDMENTS.

This might almost be said to be a Massachusetts invention. As has been shown, the venerable Body of Liberties, 1641, was not put into effect until it had been "sent forth among the Freemen" and their approval secured. In the following century, not infrequently questions of moment were referred to the people. During the years which immediately preceded the

Revolution these appeals became numerous. In the five years 1776 to 1780, seven times grave questions were submitted to a vote by the electors of the whole Commonwealth. Thus in 1776 Massachusetts men were called upon to answer the question: "Do you favor a Declaration of Independence?" and in 1778: "Do you favor a Confederation of the Colonies?" In 1776, 1777 and 1779 they voted upon several proposals to hold constitutional conventions. Finally, it was by a genuine Referendum that the draft Constitution of 1778 was rejected, and by another Referendum that the Constitution of 1780 was adopted. Thus Massachusetts "gave to the world the first popularly ratified State Constitution."

Thus came into being an instrument which has been the subject of almost universal encomium. Borgeaud calls it "the most perfect expression of the American theory, as understood at the close of the Revolution". Though not the earliest of the American Constitutions, it is to-day the oldest. While all similar instruments of its time have been swept away and superseded by later Constitutions, it still survives, with prestige unimpaired, supplemented only by amendments which time has made necessary. . . This venerable charter has been a model, both in form and substance, for all subsequent constitution makers.¹

The precedent proved attractive. Ratification by vote of the people soon became the established rule, and to-day there are few exceptions of State constitutions or amendments thereto which have not derived their authority from the vote of the people.

Including the vote upon the adoption of this Constitution as the first, there have been seventy-three State-wide referenda in this Commonwealth from 1780 to 1917. They have been of different kinds: Five of them have been votes upon proposals for the holding of a constitutional convention (1795, 1820, 1851, 1852, 1916). One was unique, — giving to the men and women of the Commonwealth an opportunity to vote upon "the expediency of granting municipal suffrage to women" (1895). It has been by the voters' sanction that forty-four amendments have been added to the Constitution, and by the people's will that twenty other proposed amendments have been rejected.

¹ C. S. Lobingier, *The People's Law*, 176, 177.

So thoroughly familiar is this exercise of the Compulsory Referendum in Massachusetts, and so similar is the procedure under it in nearly all the States that there is here no need of its extended discussion. But these many State-wide votings in Massachusetts illustrate clearly several characteristic workings of the Compulsory Referendum. They show the tendency to vote "all one way" or in blocks on a series of proposals. Of the fourteen proposed amendments which embodied the results of the Convention's labors in 1820, nine were adopted, while five were rejected. Of the eight amendments proposed in 1853 all were rejected. These ballotings show a wide variation in the vote which they called forth. Thus, in the excitement which attended the submission of the amendments proposed by the Convention of 1853, the vote on those eight amendments ranged from 100.8 to 101.8 per cent of the vote cast for Governor that same day, and all the measures were rejected. On the other hand, at the very next trial of the Referendum, May 23, 1855, gauged by a like standard, the vote on the six measures submitted ranged from 14.4 to 14.7 per cent, and every one of the six measures was adopted. In fact, of the forty-four amendments which have been adopted, sixteen have been ratified at elections where not 30 per cent of those who voted for Governor had voted for or against the amendments. The climax was reached in 1860 when two amendments ("To provide a method for filling vacancies in the Senate;" "To provide a method for filling vacancies in the Council") were added to the Constitution of this Commonwealth when the votes for and against each of them aggregated only 3.3 per cent of the number of votes cast for Governor that day, — the amendments being actually made a part of the Constitution by a vote-percentage smaller by a third than that required at present in any State of the Union for the number of signatures to a Referendum petition. Obviously the voters considered that these amendments dealt with mere mechanical details of governmental machinery which concerned them but little. Similar testimony comes from many States as to the working of the Compulsory Referendum on Constitutional amendments. Particularly in States where scant attention is given to maintaining any distinction in content between the Constitution and the

body of the statutes, or where the Legislature is unduly hampered, the constitutional amendments are often of merely local and trivial interest. Thus at the South Carolina election of 1914, of the eleven constitutional amendments voted upon all over the State three related to the bonded indebtedness of individual cities, towns or school districts, five empowered named towns to assess abutting property for permanent improvements, and the rest were of hardly more general or momentous concern. It not infrequently happens that proposed amendments of doubtful merit are allowed to slip through by the Legislature, its members being willing to take whatever credit may result from voting for them, while leaving to the electorate or the courts the question whether the measures shall stand or fall. The evidence is entirely conclusive that the vote on these Compulsory Referenda is materially lower than on measures submitted by the Initiative or by the Optional Referendum. The signers of initiative and referendum petitions, by putting their names to those documents, give evidence of a considerable popular interest if not of a pronounced public opinion as to the proposals, whereas in the case of the Compulsory Referendum on constitutional amendments there is no basis for such a presumption.

It deserves consideration, therefore, whether the Compulsory Referendum as to constitutional amendments should not be given up, at any rate except in regard to a limited range of important topics. If it were required that proposed amendments should be approved by exceptional majorities in the Legislature (as at present in Massachusetts) and then be subject to the Optional Referendum, on petition of a stipulated number of qualified voters, it can hardly be doubted that in most States, on the one hand, constitutional amendments would receive more searching criticism than is now given them, while on the other, the ballot would be rid of a considerable number of proposals in which the voters can be expected to take but the slightest interest.

THE OPTIONAL REFERENDUM.

In contrast with the Compulsory Referendum, the Optional Referendum brings a proposal before the electors not by the mandate of law but by some one's voluntary choice. In the first place, this choice may be exercised by the Legislature which has enacted the measure in question.

The Legislative Referendum.

The people's verdict may be sought by the Legislature as a reply to some question of public policy, as when in 1895 the General Court called upon the voters to answer the question as to the expediency of granting municipal suffrage to women.

Many years ago the Legislatures in one State after another made the experiment of submitting to the electors not such an exceptional question, but an actual law, enacted by the ordinary procedure, but to which the Legislature had "attached a referendum," — *i.e.*, made its going into effect contingent upon its receiving a majority vote of approval from the electors. The motives for such action were diverse: in some cases, a politic wish to shift responsibility in a difficult situation; in others a democratic deference to the unknown will of the majority; in others, uncertainty as to how the interests of the public would be affected by the measure, or a desire to secure for it the backing of a declared public opinion.

Such action by the Legislatures was promptly challenged as an unwarranted delegating of legislative power. Courts in Massachusetts, New York and several other States gave decisions to that effect. Vermont and Wisconsin courts, on the other hand, held that such references were constitutional. Dicta may be cited from a dozen States — a large proportion of them in the South — holding that view. In spite of the clash of judicial opinion and of constitutional declaration — for such reference is expressly prohibited by the Constitutions of Indiana and Kentucky, and expressly permitted by the Constitutions of Arizona, Arkansas, Colorado, Maine, Michigan, Missouri, Montana, Oklahoma, Oregon and Washington (*Equity*, XVI, 24) — the practice became more common.

In 1913 it secured formal recognition in Massachusetts.

Article XLII of the Amendments provides: "Full power and authority are hereby given and granted to the General Court to refer to the people for their rejection or approval at the polls any act or resolve of the General Court or any part or parts thereof. Such reference shall be by a majority yea and nay vote of all members of each house present and voting," etc.

The measures which the General Court, under this warrant, has referred to the people and the result of their votings are as follows:

Election of November 3, 1914.

	Yes.	No.	Majority for.	Per Cent Total Vote.
1. An Act to make Saturday a half holiday for laborers employed by the State,	248,987	128,251	120,736	82
2. To abolish the enrollment of members of political parties,	253,716	86,834	166,882	72

Votes for Governor, 458,204.

Election of November 7, 1916.

	Yes.	No.	Majority for.	Per Cent Total Vote.
1. An Act making New Year's Day a legal holiday,	312,678	113,142	199,536	80
2. An Act to prevent the voters of one political party from voting in the primaries of another political party,	209,624	150,050	59,574	68
3. An Act to ascertain and carry out the will of the people relative to the calling and holding of a Constitutional Convention,	217,293	120,979	97,314	64

Votes for Governor, 526,421.

The Statutory Referendum (Optional Referendum by Petition).

The second form of Optional Referendum is that in which it is the choice of a certain number of qualified voters that determines that an act of the Legislature shall be submitted to

the electors, for their approval or rejection by majority vote. It is over this form of Referendum that present-day opinion and practice, in the several States, most widely differ.

States have brought the Statutory Referendum into their constitutions in the following order:

Year.	STATE.	Petition Signers.
1898,	South Dakota,	5 per cent.
1900,	Utah,	10 per cent.
1902,	Oregon,	5 per cent.
1905,	Nevada,	10 per cent.
1906,	Montana,	5 per cent.
1907,	Oklahoma,	5 per cent.
1908,	Maine,	10,000 voters.
1908,	Missouri,	5 per cent.
1910,	Arkansas,	5 per cent.
1910,	Colorado,	5 per cent.
1911,	Arizona,	5 per cent.
1911,	New Mexico,	10 per cent.
1911,	California,	5 per cent.
1912,	Ohio,	6 per cent.
1912,	Nebraska,	10 per cent.
1912,	Washington,	6 per cent.
1912,	Idaho,	Not yet determined.
1913,	Michigan,	5 per cent.
1914,	North Dakota,	10 per cent.
1915,	Maryland,	10,000 voters.

The Statutory Referendum first found its way into an American State constitution in South Dakota, 1898, in the declaration that the right was reserved to the people "to require that laws which the Legislature may have enacted shall be submitted to the vote of the electors before going into effect." In Oregon, the State which has used this form of the Referendum most freely, its enunciation was as follows: "The power is reserved to the people at their own option to approve or reject at the polls any act of the Legislature, except . . ." etc. The most widely adopted formula reserves "the power to approve or reject at the polls any act, item, section or part of a bill, act or law passed by the Legislature, except . . ." etc.

There is wide diversity as to the scope of the Referendum's applicability. California, Idaho and Nevada declare it to be applicable to any law. Fifteen States make it applicable to any measures except those specifically prohibited. A dozen States concur in declaring exempt from Referendum petition

"laws necessary for the immediate preservation of public peace, health or safety." In many States laws for the support of the State government, or its various institutions, including the public schools, are excluded from the Referendum's test. Maine makes elaborate provision to prevent the trammeling of the Legislature by Referenda on resolutions concerning its procedure, etc.

In order that ample opportunity may be afforded for the filing of Referendum petitions, it is ordinarily provided that no law (with the exception of those classes to which the Referendum is not applicable, as cited above, or of "emergency measures," to be discussed later) shall go into effect for a certain period after its passage. In the great majority of the States which have adopted the Referendum, this interval is ninety days from the end of the legislative session in which the act was passed. Utah prescribes only sixty days. Ohio provides that the ninety days shall run not from the end of the session but from the time when the Governor files the approved law.

Emergency Measures. — In drafting a Constitution's sections relating to the Referendum, the clause relating to emergency measures presents a difficult problem. Unless the power is given to the Legislature to forestall the use of the Referendum in time of stress, there is danger that the public interest may be seriously injured through the delay of needed legislation by the filing of a referendum petition against the measure in question. On the other hand, there is a real danger that a Legislature, if given any discretion as to the forestalling of a Referendum, may abuse that power by alleging an emergency, in the case of many a measure, where no real emergency exists. In Oregon this abuse is said to have led to the Governor's vetoing several measures to which the Legislature had applied an emergency clause. The record of the South Dakota Legislature in this matter is highly suggestive.¹

¹ In 1915, however, the Supreme Court of South Dakota held in *State ex rel. Richards v. Whisman*, 36 S. D. 260, that the emergency clause cannot defeat a Referendum unless an *actual* emergency, as defined by the Constitution, exists. A falling off in the number of emergencies seems to have set in.

YEAR.	Total Acts passed.	Passed with Emergency Clause.
1899,	126	65
1901,	185	82
1903,	223	107
1905,	173	87
1907,	249	100
1909,	295	96
1911,	265	122
1913,	371	151
1915,	307	129
1916,	3 ¹	2
1917,	376	98
	2,573	1,039 ²

¹ Special session.

² Forty per cent.

The States differ widely in the degree of discretion which they leave to the Legislature in dealing with this matter. In Missouri any act is an emergency measure which is declared so to be. Acts making appropriations are privileged as emergency measures in Michigan, and measures for the support of the State government and State institutions are so listed in Arizona. The definition of "emergency measures" which has found widest acceptance is: "measures immediately necessary for the preservation of the public peace, health or safety." Substantially this phrasing is found in the Constitutions of nine States. (Arizona, Michigan, Nebraska, New Mexico, Ohio, South Dakota, California, Maine and Oklahoma.) But several of the States, distrusting the interpretation which a heedless or reckless Legislature might put upon these simple phrases, have sought to remove temptation by narrowing the range of possible interpretation. Thus, the California Constitution adds to the above definition the following: "*Provided, however, that no measure creating or abolishing any office or changing the salary, term or duties of any officer, or granting any franchise or special privilege, shall be construed to be an emergency.*" Maine makes special exclusion of the following: "(1) an infringement on the right of home rule for municipalities; (2) a franchise or license to a corporation or individual to extend longer than one year, or (3) provisions for sale or purchase or renting for more than five years of real estate."

Five of the States secure the desired object not by sharper definition of "emergency" but by requiring that the Legislature shall explicitly declare in the act itself that the proposed act is an "emergency measure." Some insist that this declaration be placed in a separate section. Maine and North Dakota require that the section declaring it an emergency shall state the facts constituting the emergency, and California and Ohio require that that section be passed only by a yea and nay vote, upon a separate roll-call thereon. Nearly all of the States which exempt emergency measures from the Referendum require that the justification for such action shall be evidenced by an exceptional vote, the ordinary minimum being a two-thirds vote of all members elected to each house. Other States require an aye and nay vote in each house, to be entered on the journal, and a three-fourths vote, in case of the Governor's veto. It is generally provided that acts passed as emergency measures shall go into effect "immediately" (California, Michigan, Ohio, Oregon, Washington) or "when the Legislature directs" (Maine, Missouri, Nebraska, South Dakota).

Number of Signers required. — Nine of the States which have introduced the statutory Referendum insist that the petitions therefor shall bear the signatures of five per cent ("not more than five per cent," says South Dakota) of the legal voters in the State. (Reckoned on the list of registered voters in November, 1916, in Massachusetts, this would mean 32,544 signatures.) It may be a matter of some significance that the table of enactments of Initiative and Referendum amendments seems to indicate a distinct tendency to increase the percentage required. Ohio and Washington insist upon six per cent, but — in the latter State — in no case more than 30,000 voters. Four States require ten per cent. Maine and Maryland make the test not a percentage but a minimum number, — "not less than 10,000 electors." Missouri, Montana, Ohio and New Mexico insist that the petitioners shall be widely distributed, New Mexico stipulating that that aggregate of ten per cent of the voters shall comprise "not less than ten per cent of the qualified electors of each of three-fourths of the counties."

Time of Filing the Petition. — The provisions as to the filing of the petition, of course, vary in accordance with the individual

State's rule as to the time when the acts of its Legislature go into effect. A dozen of the States allow ninety days after the adjournment of the Legislature by which the measure in question has been enacted. Ohio dates the ninety days from the Governor's filing of the law. Montana extends the time to six months from the end of the Legislature's session. New Mexico starts from the other end, insisting that the petition must be filed not less than four months prior to the next general election.

Does the Filing of a Referendum Petition Suspend the Law? — In fifteen States, upon the filing of a Referendum petition within the allotted time and bearing the requisite number of signatures, the operation of the measure against which it is directed is suspended until it shall have received the approval of the voters at a general or special election. In this very fact lies the cause of filing some petitions. The Statutory Referendum has been advocated mainly as a device for blocking bad measures. But, like all modes of obstruction, it can be used for unworthy ends, and from several States comes convincing evidence of the filing of referendum petitions against measures which were passed in the public interest and which were sure to be approved at the polls; but the possibility of securing nearly two years' delay in the law's going into effect was a stake worth striving for on the part of the real instigators of the petition.

To prevent this misuse of the petition, Nevada provides that the challenged measure shall remain in force until its rejection. Both California and Ohio provide that acts for the immediate preservation of the public peace, health or safety shall continue in effect until rejected by the voters or repealed by the Legislature. Although Montana requires the signatures of but five per cent of her legal voters upon a referendum petition, she insists upon the signatures of fifteen per cent to an extraordinary petition to effect the suspension of the measure, and New Mexico requires the signatures of twenty-five per cent upon a similar petition.

The Referendum may apply to Part of a Measure. — In nine States the Referendum has been planned on the model of the itemized veto possessed by the Governor in many of the States. In substantially identical language, it is provided that the

filing of a petition against one or more items, sections or parts of an act shall not delay the remainder of that act from becoming operative.

When is the Referendum to be submitted to the Voters? — The usual provision is that the measure against which a Referendum petition has been filed shall be submitted to the people at the next general election. Four States add the phrase: "occurring at any time subsequent to thirty days after the filing of the petition." California and Maine provide that the Governor may call a special election to pass upon such measures.

By what Vote is a Referred Measure Adopted? — On the question what vote should be required for the adoption of a measure referred to the people there is pronounced difference of opinion among students of government and difference of practice by the several States. Of those which have introduced the Referendum alone, or which deal with it separately, three (Nebraska, North Dakota and Oklahoma) provide that the measure shall be adopted by a mere majority of the votes cast thereon, without regard to the aggregate of the number expressing any opinion upon the question. Nevada requires that a majority of the electors voting at that State election shall vote in approval of the measure. New Mexico provides that the measure shall be rejected, if a majority of legal votes cast thereon and not less than forty per cent of the total number of legal votes cast at that election shall be cast for its rejection. It deserves to be recalled, in this connection, that of the seventy-three Referendum votes taken in the Commonwealth of Massachusetts sixteen failed to secure an aggregate vote of thirty per cent of the number cast at that election. For further discussion of required majorities, see page 38.

Amendment and Repeal of a Measure Approved on Referendum. — When a measure has been approved by direct vote of the people, shall it be immune from change by the ordinary legislative process? California and Michigan are content to allow such measures to be amended by the Legislature at any subsequent session, trusting to a later Referendum to baffle any attempt there made to reverse the voters' decision. Nevada, on the other hand, declares that a measure which has

been adopted by the electors shall in no way be amended, suspended or made inoperative except by direct vote of the people.

To what Extent is the Statutory Referendum Invoked, and how Many Laws are Rejected thereby? — In view of the enormous number of laws turned out each year by our legislative mills, and in view of the further fact that the Statutory Referendum has been introduced only in States where the work of the Legislature was more or less under suspicion, the number of laws which have been challenged by Referendum petitions is surprisingly small. The following table presents the record. Of course the securing of an *adverse* majority was the goal at which the referendum petitioners aimed.

STATE.	Year.	Acts referred.	Accepted.	Rejected.
Arizona,	1912	8	8	—
	1914	4	2	2
	1916	—	—	—
Arkansas,	1912	1	—	1
	1914	—	—	—
	1916	2	1	1
California,	1912	3	—	3
	1914	4	3	1
	1916	1	—	1
Colorado,	1912	6	1	5
	1914	5	1	4
	1916	1	1	—
Maine,	1910	3	—	3
	1911	—	—	—
	1912	1	1	—
	1913	—	—	—
	1914	1	1	—
	1915	—	—	—
Missouri,	1916	1	1	—
	1916	4	—	4
Michigan,	1914	—	—	—
	1916	—	—	—
Maryland,	1916	—	—	—
Montana,	1912	1	—	1
	1914	1	—	1
	1916	—	—	—

STATE.	Year.	Acts referred.	Accepted.	Rejected.
Nevada,	1908	1	1	—
Nebraska,	1914	3	1	2
	1916	—	—	—
North Dakota,	1916	2	2	—
Ohio,	1914	—	—	—
	1916	—	—	—
Oklahoma,	1910	1	—	1
	1912-16	—	—	—
Oregon,	1908	1	—	1
	1910	3	2	1
	1912	3	1	2
	1914-16	—	—	—
South Dakota,	1908	3	3	—
	1910	5	—	5
	1912	3	3	—
	1914	1	—	1
	1916	1	—	1
Washington,	1914	—	—	—
	1916	7	—	7

In seventeen States, since their introduction of the Statutory Referendum, the compiler finds a record of petitions being filed only in the case of eighty-one measures. In forty-eight instances the challenge has resulted in the rejection of the acts which had been passed by the Legislature. The record of the Washington Legislature of 1916 was such as to arouse great popular protest, and the result was the rejection of a long list of its acts. But the rest of the table gives no indication of an increasing disposition to hold up legislation by the Referendum. Of course, its advocates' contention is that its main service lies in the deterrent effect which it exercises upon Legislatures while they are doing their work, rather than in the later repudiation of their work.

Nature of Laws rejected.—The following list indicates the nature of the laws which have been rejected at the last two general elections, and the degree of interest manifested in those Referenda, as gauged by the aggregate vote cast upon each question, as compared with the vote cast for candidates for the highest office filled at that election.

Laws rejected by Referenda, 1914 and 1916.

STATE.	Year.	Measure.	Per Cent Total Vote.
Arizona, . . .	1914	Relating to the creation of new counties, . . .	65
		Changing county seats,	66
California, . . .	1916	Direct Primary Law,	68
Colorado, . . .	1914	For a public utilities commission,	41
		Licensing commission merchants,	42
		Special provision for additional peace officers,	45
Missouri, . . .	1914	Requiring railroads to employ full crews of trainmen,	78
		Making counties the sole units in local option elections,	78
		Providing for a bi-partisan board of excise commissioners,	70
		Providing for a bi-partisan board of police commissioners,	70
Montana, . . .	1914	Establishing a commission to regulate boxing contests,	48
Nebraska, . . .	1914	University removal,	90
		Nebraska City Armory,	74
South Dakota, . .	1914	Amending Northern Normal School charter,	78
Washington, . . .	1916	Requiring the signing of initiative and referendum petitions at registration places,	68
		Recall petitions to be signed at registration places,	68
		Return to party conventions,	66
		Against election picketing,	70
		Certificate of convenience and necessity,	66
		Port Commission Bill,	64
		Budget Bill,	66

The Missouri and Washington elections were "Vote 'No'" elections, in which every measure put before the voters was rejected, — fifteen in the former and ten in the latter State.

THE STATUTORY INITIATIVE AND REFERENDUM: COMMON PROVISIONS.

Despite the fact that there are marked differences in the theory and intent of the Initiative and Referendum — the one being designed to force the enactment of laws which the Legislature is reluctant to pass, while the other is intended to annul objectionable laws which the Legislature has already passed — there is much in the procedure employed which is common to

both, and many States reserve to the people both forms of legislative power and provide regulations for its exercise in the same article of the Constitution or in the same statute. Such provisions, relating alike to the working of the Initiative and Referendum, will therefore be discussed together in the following pages.

METHOD OF INVOKING THE INITIATIVE AND REFERENDUM: THE PETITION.

The pioneer State to reserve to the people the power of direct legislation, South Dakota, made no provision in her constitutional amendment as to the method by which the "not more than five per centum of the qualified electors of the State" should invoke the Initiative or Referendum, but required that the Legislature should make suitable provisions for carrying the amendment's provisions into effect. This was done the following year. But Utah (1900) and Idaho (1912), having by constitutional amendments reserved these powers to the people "under such conditions and in such manner as may be provided by the Legislature," have discovered that an amendment may prove of no effect unless it is made self-executory. Not till 1917 did the Utah Legislature provide the necessary statute, and the Idaho Legislature has not yet acted. All the other States make explicit provision that the voters' challenge for the enactment or rejection of laws shall be by petition.

The Petition's Form and Content.

The petition, addressed to the Governor or Secretary of State, in form follows provisions set forth in the statute or the rules laid down by the Secretary of State, Attorney-General, or some commission dealing with elections. Four States (Arizona, California, Michigan, Maine) have made it a constitutional requirement that every petition shall contain a full and correct copy of the text of the measure in question.

The Signatures.

Who may solicit them, and on what Basis? — Three States (Colorado, Maine, Ohio) require merely that the solicitor shall be a qualified elector of the State. Others insist that he must

be an elector of the city or county in which he is circulating the petition.

In most of the States the solicitation has been to a large extent by paid signature-getters, the ordinary rate being five cents a name. In some States solicitors have been sought by newspaper advertisements, promising high rates of pay. The assumption that the number of petitioners' names thus secured affords any real gauge of the quantity or quality of public opinion on a given measure finds little basis in logic or experience. Flagrant and wholesale frauds on the part of solicitors have been discovered. Oklahoma's Constitution provides that laws shall be enacted to prevent corruption in connection with these petitions. In 1913 South Dakota's Legislature enacted a law prohibiting the circulator of such petitions from receiving compensation therefor. Yet the task of securing the signatures of five per cent of the voters (in Massachusetts some 32,000 names) must involve much time and effort. In Oregon it has repeatedly been found that even such large and elaborately organized associations as the State Grange, in seeking to further measures in which its members were vitally interested, after exhausting volunteer efforts, have had to hire solicitors to secure the last hundreds. Question has been raised whether the prohibition of pay for signature-getting would not in some instances stand in the way of desirable and justifiable use of the petition. If such prohibition is to be made, the percentage or number of names required becomes a matter for serious consideration.

What Information should accompany the Signature? — With the signature there should be given enough detail to make possible the identification of the signer. The usual requirement is that the signer shall state the street and number of his residence. Some States insist that he shall put down his election precinct, and date his signature.

How shall the Genuineness of his Qualifications be Evidenced? — 1. Arizona accepts each petitioner's declaration that he is a qualified elector.

2. Maine requires the certificate of the local city or town clerk that the signers' names are on the voting list as qualified to vote for Governor.

3. By affidavit. Four States require that the affidavit be signed by the circulator of the petition. Maine requires it from any one of the certified petitioners, and Colorado from any qualified elector.

The most common formula asserts that "the signatures are genuine to the best of the affiant's knowledge and belief, and that they were made in his presence." Colorado insists that he state that to the best of his knowledge and belief the signers are electors, and Ohio "that the petitioners signed with knowledge of the contents of the petition and on the dates set opposite their names." South Dakota's affidavit is even more exacting (act of March 13, 1913).

The Basis for Computing the Number of Signers. — In most States the requisite number of signatures is determined as a percentage of the whole number of electors who voted for Governor (or for the highest elective officer) at the regular election next preceding the filing of any petition for the Initiative or Referendum. In States like Oregon, which have adopted woman's suffrage since they wrote "eight per cent" and "five per cent" into their constitutional amendments, the difficulty involved in getting a measure upon the ballot has been practically doubled, which may have a bearing upon the fact that the number of measures voted on has shrunk from thirty-seven in 1912 to twenty-nine in 1914, and eleven in 1916.

Maine makes her requirement a definite number of signatures, — 12,000 in the case of the Initiative and 10,000 in the case of the Referendum petition.

The Filing of the Petition.

A dozen constitutions merely state that the petition shall be filed with the Secretary of State. The California and Michigan Constitutions go most into detail as to the filing of sections of the petition with the county clerk or local registrar of voters, and his duties as to examining, certifying and transmitting it to the Secretary of State. California, Michigan and Ohio permit the filing of supplementary petitions in case it is found that the original one has not been signed by the requisite number.

The Submission of the Measure to the Electors.

As to the submission of measures to the people, some constitutions declare that the procedure shall be governed by general laws and the amendment establishing the Initiative and Referendum, until additional legislation shall especially provide therefor. In some of the later constitutions, however, the whole procedure is laid down in intricate detail. Ohio's Constitution affords a bewildering example.

Methods of Publicity. — One of the most important questions is, what information or assistance shall the State provide for the elector in preparation for his task? Three of the constitutions merely provide that the text of all measures to be submitted shall be published as constitutional amendments are published. Arizona, Arkansas and Colorado insist that the measures shall be printed in full in at least one newspaper in each county where a newspaper is published, for times varying from one to three months. Maine trusts to the distribution of sample ballots to give needed publicity. On the other hand, half a dozen States take the duty more seriously, and provide for the distribution of the measure and arguments thereon. In Oregon one brief or argument may be presented by the sponsors for a measure and any number by those persons or organizations who oppose it, the cost of printing and of paper being borne by those who present the arguments; these are compiled by the Secretary of State into a campaign pamphlet, containing the ballot title, exactly as it is to appear in the voting booth, and the full text of each measure. These are to be mailed to "every voter in the State whose address he may have" fifty-five days in advance of the general election. The cost of binding and distribution and of printing, except that of the arguments, is borne by the State. It is unusual for arguments to be presented by both the advocates and the opponents of a measure, and half the measures appear unaccompanied by any argument.

In California the Constitution provides that persons to prepare and present arguments for and against each measure shall be designated by the presiding officer of the Senate. Although some of these arguments are spiritless, this method, neverthe-

less, assures the voter's having an opportunity to see what is to be said upon both sides of every measure upon which he is to pass judgment. In Ohio the persons to prepare the arguments are selected by the Legislature, or by the Governor, if the Legislature is not in session, and the arguments, in each case, must not exceed three hundred words. Montana, Oklahoma and Washington also make provision for publicity by official pamphlets, in which the full text of the measures is accompanied by arguments. This method involved considerable expense, though it is to be doubted whether it is greater than that demanded for newspaper advertising, and it is more free from favoritism or graft. Despite the fact that many of the campaign pamphlets are entirely wasted, this method, nevertheless, gives every voter his opportunity to inform himself. Some gauge of its effectiveness in stimulating interest can be secured by comparing the percentage of voters who actually vote on these measures with those voting in the election of candidates, in States employing these campaign pamphlets and in States which trust to newspaper publication of the measures; or a similar comparison may be made within the same State before and after its adoption of the pamphlet. Thus, in California, 1899 to 1908, "the average vote on the fifty-one measures submitted by the Legislature, indicated as a percentage of the total attendance at the polls, was forty-three per cent."¹ On the seven measures submitted to the voters in 1916, the average was seventy-nine per cent.

The Ballot. — In most States the Constitution devolves upon the Secretary of State the duty of preparing the titles which shall stand for the measures upon the ballot, "in such form as to present the question or questions concisely and intelligibly" (Maine). In Oregon the phrasing of the ballot title is the duty of the Attorney-General. Much hinges on the skill and honesty with which this simple task is performed.

Conflicting Provisions or Measures. — Four States (Arizona, California, Nebraska and Nevada) provide that, if conflicting measures submitted to the people at the same election shall be approved by the electors, the measure receiving the highest number of affirmative votes shall thereupon become law as to

¹ Holcombe, *State Government in the United States*, 423.

all conflicting provisions. In case of conflicting measures appearing upon the same ballot, Washington's Constitution provides that the voter shall have an opportunity to express two preferences: (1) as between either measure and neither, and (2) as between one and the other. If the majority of those voting on the first issue is for neither, both fail; but in that case votes on the second issue shall nevertheless be carefully counted and made public. If the majority voting on the first issue is for either, then the measure receiving a majority of the votes on the second issue shall be law.

Majority Required for Adoption. — In the constitutions which make general provision for both the Initiative and Referendum together, seven States require for the adoption of a measure merely a majority of the votes cast thereon (Arizona, California, Colorado, Maine, Michigan, Missouri, Oregon). Washington insists that the vote cast upon such measures shall equal one-third of the total vote cast at that election. Nebraska requires that the vote in favor of the measure shall constitute thirty-five per cent of the total vote cast at the election. Nevada insists upon the approval of each referred measure by a majority of those voting at that election, while each Initiative measure is adopted by a majority of the votes cast thereon. In Oklahoma, on the other hand, Initiative measures require a majority of the votes cast at the election, while a referred measure is given effect by a majority of the votes cast thereon. In Arkansas, measures submitted to the voters by the Legislature, whether constitutional amendments or statutes, require the approval of a majority of the votes cast at that election, whereas measures brought before the electors by initiative or referendum petition require only a majority of votes cast thereon.

The insistence upon a majority of the votes cast at the election has caused the failure of many measures upon which the approval of those actually voting on them was heavily preponderant. Thus, in Arkansas (November 7, 1916) the total vote for candidates was 167,505. A "Good Road Tax" measure was approved by the voters, 82,503 to 66,150, a majority of 16,353, yet it "failed to pass," because the favoring vote did not exceed 83,753. In the Oklahoma votings on

the eleven measures at the regular elections in the years 1908 and 1910 five bills of importance, which were approved by majorities ranging from 27,994 to 58,503, nevertheless failed of enactment because the constitutional majority was not secured.

Canvass of the Returns. — Arizona is the only State to require any exceptional formality in the procedure of canvassing the votes for and against Initiative and Referendum measures: the Secretary of State is to do this service in the presence of the Governor and Chief Justice of the Supreme Court of the State.

Governor's Veto on Submitted Measures. — Fifteen States explicitly declare that the Governor's veto power shall not extend to measures which have been approved by vote of the people.

Resubmission of Rejected Measures. — In order that the electors may not be tired out by the importunity of advocates for a measure for which there is no substantial demand, the Oklahoma Constitution provides that no measure which has been rejected by the people through the powers of the Initiative or Referendum can be again proposed by the Initiative within three years thereafter by less than twenty-five per cent of the legal voters. Similar action is under consideration in several States, and is being advocated by some of the principal leaders in the propaganda for the Initiative and Referendum.

Amendment and Repeal of Adopted Measures.

On this point there is wide diversity in the laws of the several States. Oklahoma declares that the reservation of the powers of the Initiative and Referendum shall not deprive the Legislature of the right to repeal any law, or propose or pass any measure which may be consistent with the Constitution of the State and the Constitution of the United States. On the other hand, Arizona (by an amendment adopted in 1914 by a majority of 83 in a vote of 16,567 to 16,484) provides the power of the Governor to veto or of the Legislature to amend or repeal shall not extend to initiative or referendum measures which have been approved by the electors. The Washington Constitution pursues a more moderate course than either of these; it discourages hasty or resentful action on the part of the Legis-

lature by providing: "No act, law or bill, approved by a majority of the electors voting thereon, shall be amended or repealed by the Legislature within a period of two years following such enactment."

Relation of Initiative and Referendum to the Rights of Members of the Legislature.

Ten State Constitutions are at pains to set forth that the section relating to the Initiative and Referendum shall not be construed to deprive any member of the Legislature of the right to introduce any measure. On the other hand; the Oregon Constitution is explicit in its statement that the words "the legislative assembly shall provide," or any similar phrases in the Constitution, shall not be construed to grant to the Legislature any exclusive power of law-making, nor in any way limit the Initiative and Referendum powers reserved to the people.

The Number of Measures on the Ballot and their Limitation.

The great number of measures which have been placed upon the ballot has at times imposed a preposterous task upon the voter, after all allowance is made for his being supplied with a campaign book with two months for its study. But an examination of these long lists of measures (*e.g.*, Ohio, 42 in 1912; Oregon, 37 in 1912; California, 48 in 1914) discloses that a very considerable proportion of these measures were brought before the people, not by initiative or referendum petition, but by the Legislature itself in starting constitutional amendments, or in attaching a referendum clause to its own bills. In not a few cases it is the Compulsory Referenda which have least enlisted and deserved the electors' interest.

Apparently this abuse of numbers is correcting itself in some measure. There has been a marked falling off in several States in the number of measures upon which the people have been asked to vote. In some cases this may be attributed in part to the doubled difficulty in securing the fixed *percentage* of voters as signers of petitions, after the granting of the suffrage to women. In the first few years after the introduction of the Initiative, it is to be expected that measures which its sponsors have been seeking will be forced upon the ballot. The more

desirable of these are soon secured. With that accomplished, and with the novelty of the Initiative and Referendum worn off, there seems a clearly marked and general tendency for these legislative devices to come to their more normal use, as implements or weapons not to be played or experimented with, but to be kept in readiness for time of need.

COURT DECISIONS RELATING TO THE INITIATIVE AND REFERENDUM.

Of the questions relating to the Initiative and Referendum which have been brought into court, the following are the most important:

1. Do the Initiative and Referendum abolish or interfere with that "republican form of government" which is guaranteed to every State in this Union under Section 4 of Article IV of the Federal Constitution?

The Supreme Court of the United States, in *Pacific States Telephone and Telegraph Co. v. Oregon* (1912), 223 U. S. 118, held that the question as to when the government of a State had ceased to be republican in form, and when there was call for the enforcement of the above guaranty were questions "not cognizable by the judicial power, but solely committed by the Constitution to the judgment of Congress." In delivering the opinion, Mr. Chief Justice White reaffirmed the doctrine of the "absolutely controlling case" of *Luther v. Borden*, quoting from that decision: "When the senators and representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, are recognized by the proper central authority. And its decision is binding on every other department of the government and could not be questioned in a judicial tribunal." Congress has virtually decided in favor of the Initiative as a proper instrumentality in State government by receiving without protest the representatives and senators as members of both houses of Congress from South Dakota, Oregon, Maine and other States having the Initiative in their Constitutions, and also by admitting to the Union Oklahoma and Arizona, with Constitutions which contained the Initiative.

"The initiative and referendum amendment does not abolish or destroy the republican form of government or substitute another in its place. The people have simply reserved to themselves a larger share of legislative power." *Kadderly v. Portland* (1903), 44 Ore. 118, reaffirmed in *State v. Pac. States Tel. & Tel. Co.* (1909), 53 Ore. 162, and followed in *Ex parte Wagner* (1908), 21 Okla. 33. See *Kiernan v. Portland* (1910), 57 Ore. 454. "It seems inconceivable that a State, merely because it may evolve a system by which its citizens become a branch of its legislative department, co-ordinate with their representatives in the Legislature, loses caste as a republic."

Much the same doctrine has been held in the following cases, representing four different States:

State ex rel. Schrader v. Polley (1910), 26 So. Dak. 5.

Ex parte Wagner (1908), 21 Okla. 33. This calls attention to President Roosevelt's proclamation in admitting Oklahoma as a State: "Whereas it appears that the said Constitution and government of the proposed State of Oklahoma are republican in form," etc.

State ex rel. Linde v. Taylor (1916), 33 N. D. 76.

In *Ex parte Farnsworth* (1911), 61 Tex. Crim. Rep. 342, the Initiative and Referendum were declared to be unconstitutional by the Court of Criminal Appeals of Texas, but their constitutionality was upheld by the Supreme Court of Texas in *Southwestern Tel. & Tel. Co. v. City of Dallas* (1911), 104 Tex. 114.

2. Who decides what constitutes an "emergency?" "The Legislature, having declared that an act is an emergency measure, such decision is final, and is conclusive upon the courts." *State ex rel. Lavin et al. v. Bacon et al.* (1901), 14 S. D. 394. This was reversed in *State ex rel. Richards v. Whisman* (1915), 36 S. D. 260, in which it was held that the emergency clause cannot defeat a referendum unless an actual emergency, as defined by the Constitution, exists.

In 1916 the Supreme Court of Colorado held that the declaration by the General Assembly is conclusive and the courts cannot review the question so as to allow a referendum petition. Similar decisions have been given in the courts of Oregon,

Arkansas, Oklahoma and North Dakota. Other holdings have been noted in Washington, Michigan and California.

3. Who judges of the sufficiency of the petition? The Supreme Court of Ohio, in *The State ex rel. Gongwer v. Graves* (1914), 90 Ohio St. 311, held that the final authority is vested in the Secretary of State.

The following articles summarize some of the most important decisions:

"The Initiative and Referendum before the Supreme Court," *Bradstreet's*, February 24, 1912. Vol. 40, 117.

"The Initiative and Referendum a Political Question," *Central Law Journal*, March 1, 1912. Vol. 74, 151.

See also C. A. Beard: Documents on the Initiative, Referendum and Recall, 291-348.

THE INITIATIVE AND REFERENDUM IN LOCAL GOVERNMENT.

The Initiative and Referendum have proved in harmony with the general scheme of the "Commission Form" of city and town government, and during the past fifteen years have been widely introduced, the country over.¹

In Massachusetts their use was authorized in charters granted by special acts to the following cities:

Year.	City.	Initiative.	Referendum.
1908.	Gloucester, . . .	25 per cent, . . .	25 per cent.
1908	Haverhill, . . .	10 per cent, general election, . 25 per cent, special election.	25 per cent.
1910	Lynn, . . .	10 per cent, general election. 25 per cent., special election,	25 per cent.
1911	Lawrence, . . .	25 per cent, general election, 25 per cent, special election, .	25 per cent. 25 per cent.
1911	Lowell, . . .	10 per cent, general election, 20 per cent, special election.	15 per cent.

The percentage of signatures required on petitions to invoke the Initiative and Referendum is figured on the total vote for

¹ No municipality in the United States has made more extended use of the Initiative and Referendum than has Portland, Oregon. (See Table of Voting, Appendix D.)

candidates for the position of mayor or of Governor at the last preceding election. Of the five cities, Lowell is the only one in which they have been invoked, and in neither of the two instances was it necessary to carry the procedure through all its stages.

In 1915 (chapter 267, An Act to simplify the revision of city charters) the General Court set forth four standard forms of charter, and authorized the citizens of any municipality of the prescribed population, with the exception of Boston, to choose for themselves the one of the four which they wished to adopt, without recourse to the Legislature. Common to all four of these forms of charter were the provisions relating to the Initiative and Referendum. In case an Initiative petition is signed by twenty per cent of the registered voters, addressed to the city council or to the school committee, it shall be transmitted to the body to which it is addressed; that body shall either pass the said measure without alteration or the city council shall call a special election, at which that measure shall be submitted to the voters, and no measure so submitted shall go into effect unless it receives the affirmative vote of at least one-third of the whole number of registered voters. If the Initiative petition is proposed by a petition bearing the signatures of eight per cent but less than twenty per cent of the registered voters, and if the measure is not passed without alteration within twenty days by the city council or school committee, as the case may be, that measure must be submitted to the voters at the next regular city election..

A Referendum may be invoked on any measure passed by the city council or by the school committee, if a petition calling therefor is filed within twenty days of its passage, signed by registered voters, equal in number to twelve per cent of the registered voters of the city. The city council or school committee is required forthwith to reconsider that measure and unless it is wholly annulled or repealed, it must be submitted to the voters at the next general city election or at a special election, as the city council shall determine, and the measure thus challenged becomes null and void unless a majority of the qualified voters voting on the same at such election shall vote in favor thereof.

For discussion of the Initiative and Referendum in local government, see C. A. Beard, *American City Government: A Survey of Newer Tendencies*, The Century Company, New York, 1912; and W. B. Munro, *The Government of American Cities*; The Macmillan Company, New York, 1912, especially "Direct Legislation and the Recall," 321-357.

The October, 1916, issue of *Equity* is devoted entirely to the topic: "Municipal Efficiency under Popular Control," and presents a survey of the law and practice as to the Initiative and Referendum in the cities of every State in the Union.

APPENDIX A.

CONSTITUTIONAL AND STATUTORY PROVISIONS RELATING TO THE STATE-WIDE INITIATIVE AND REFERENDUM.

STATE.	Constitution.	Statutes.
Arizona, . . .	Const. 1912, art. 4, part 1.	- - -
Arkansas, . . .	Const. (Amend. 1910), art. 5, sect. 1.	Acts of Ark., 1909, pp. 1238-1240. Public Acts, 1911, pp. 582-593.
California, . . .	Const. (Amend. 1911), art. 4, sect. 1.	Statutes, 1911, pp. 1655-1659.
Colorado, . . .	Const. (Amend. 1910), art. 5, sect. 1.	Session Laws, 1910, pp. 11-14.
Idaho, . . .	Const. (Amend. 1912), art. 3, sect. 1.	Not put in force by Legislature.
Maine, . . .	Const. (Amend. 1908), art. 4, part 1, sects. 1 and 16-22.	Resolves, 1907, ch. 121, pp. 1476-1481.
Michigan, . . .	Const. 1908, art. 5, sect. 38, and art. 17, sects. 2 and 3. Amend. of art. 5, 1913.	- - -
Missouri, . . .	Const. (Amend. 1908), art. 4, sect. 57.	Revised Statutes, 1909, vol. 2, ch. 59, sects. 6747-6756.
Mississippi, . . .	Const. (Amend. 1914), sect. 33.	- - -
Montana, . . .	Const. (Amend. 1906), art. 5, sect. 1.	Laws, 1907, ch. 62.
Nebraska, . . .	Const. (Amend. 1912), art. 3, sects. 1-1d and 10.	General Election Laws, art. XIX (Laws, 1913, sects. 397-411.)
New Mexico, . . .	Const. 1912, art. 4, sect. 1.	- - -
North Dakota, . . .	Const. (Amend. 1914), arts. II, XV.	- - -
Ohio, . . .	Const. (Amend. 1912), art. 2, sects. 1-1g.	Session Laws, 1914, p. 119. Session Laws, 1914-15, pp. 17, 295, 443.
Oklahoma, . . .	Const. 1907, art. 5, sects. 1-4, 6-8; art. 24, sect. 3.	Comp. Laws, 1909, ch. 51, as amended by ch. 66, Laws, 1910, and by ch. 107, Sess. Laws, 1910-11.
Oregon, . . .	Const. (Amend. 1902 and 1906), art. 4, sects. 1 and 1a; art. 17.	Laws, 1907, ch. 226. Laws, 1913, ch. 359; ch. 36. Laws, 1917, ch. 176, sect. 2.
South Dakota, . . .	Const. (Amend. 1898), art. 3, sect. 1.	Session Laws, 1899, ch. 93 and 94; 1913, ch. 202. Comp. Laws, 1908, vol. 1, Pol. Code, sects. 21-28.
Utah, . . .	Const. (Amend. 1900), art. 6, sects. 1 and 22.	Session Laws, 1917.
Washington, . . .	Const. (Amend. 1912), art. 2, sect. 1.	Session Laws, 1915, ch. 54.
Maryland, . . .	Const. (Amend. 1915), art. XVI.	- - -
Massachusetts, . . .	Const. (Amend. 1913), Amend. XLII.	- - -

APPENDIX B.

TEXT OF CONSTITUTIONAL AND STATUTORY PROVISIONS RELATING TO THE INITIATIVE AND REFERENDUM FROM TYPICAL STATES.

OREGON.

CONSTITUTIONAL PROVISIONS.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

§ 1. *Legislative Authority — Style of Bill — Initiative and Referendum.*

The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and house of representatives, but the people reserve to themselves power to propose laws and amendments to the constitution and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the initiative, and not more than eight per cent of the legal voters shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety), either by the petition signed by five per cent of the legal voters, or by the legislative assembly, as other bills are enacted. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people of the state shall be had at the biennial regular general elections, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved by a majority of the votes cast thereon, and not otherwise. The style of all bills shall be: "Be it enacted by the people of the state of Oregon." This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for justice of the supreme court at the regular election last

preceding the filing of any petition for the initiative or for the referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the initiative and for the referendum shall be filed with the secretary of state, and in submitting the same to the people he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor.

The above section is an amendment to the original constitution, and was adopted by the twentieth legislative assembly; adopted by the twenty-first legislative assembly: adopted by the people, by vote of 62,024 for, to 5,668 against it, June 2, 1902.

§ 1a. *Initiative and Referendum on Local, Special, and Municipal Laws and Parts of Laws.*

The referendum may be demanded by the people against one or more items, sections, or parts of any act of the legislative assembly in the same manner in which such power may be exercised against a complete act. The filing of a referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of that act from becoming operative. The initiative and referendum powers reserved to the people by this constitution are hereby further reserved to the legal voters of every municipality and district, as to all local, special, and municipal legislation, of every character, in or for their respective municipalities and districts. The manner of exercising said powers shall be prescribed by general laws, except that cities and towns may provide for the manner of exercising the initiative and referendum powers as to their municipal legislation. Not more than ten per cent of the legal voters may be required to order the referendum nor more than fifteen per cent to propose any measure, by the initiative, in any city or town.

The above section was proposed by initiative petition filed in the office of the secretary of state February 3, 1906, and adopted by vote of the people, 47,678 for, and 16,735 against, June 4, 1906. It went into effect by proclamation of the governor, issued June 25, 1906.

ARTICLE XVII.

AMENDMENTS.

§ 1. *Amendments to Constitution, How Made.*

Any amendment or amendments to this constitution may be proposed in either branch of the legislative assembly, and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered in their journals and referred by the secretary of state to the people for their approval or rejection, at the next regular general election, except when the legislative assembly shall order

a special election for that purpose. If a majority of the electors voting on any such amendment shall vote in favor thereof, it shall thereby become a part of this constitution. The votes for and against such amendment or amendments, severally, whether proposed by the legislative assembly or by initiative petition, shall be canvassed by the secretary of state in the presence of the governor, and if it shall appear to the governor that the majority of the votes cast at said election on said amendment or amendments, severally, are cast in favor thereof, it shall be his duty forthwith after such canvass, by his proclamation, to declare the said amendment or amendments, severally, having received said majority of votes, to have been adopted by the people of Oregon as part of the constitution thereof, and the same shall be in effect as a part of the constitution from the date of such proclamation. When two or more amendments shall be submitted in the manner aforesaid to the voters of this state, at the same election, they shall be so submitted that each amendment shall be voted on separately. No convention shall be called to amend or propose amendments to this constitution, or to propose a new constitution, unless the law providing for such convention shall first be approved by the people on a referendum vote at a regular general election. This article shall not be construed to impair the right of the people to amend this constitution by vote upon an initiative petition therefor.

The above section, which takes the place of the original Sections 1 and 2, was proposed by initiative petition, filed in the office of the secretary of state February 3, 1906, and adopted by vote of the people, 47,861 for, and 18,751 against, June 4, 1906. It went into effect upon proclamation of the governor June 25, 1906.

STATUTORY PROVISIONS.

DIRECT LEGISLATION ELECTIONS.

§ 3470. *Form of Petition for Referendum.*

The following shall be substantially the form of petition for the referendum to the people on any act passed by the legislative assembly of the state of Oregon, or by a city council:

WARNING

It is a felony for any one to sign any initiative or referendum petition with any other name than his own, or to knowingly sign his more than once for the same measure, or to sign such petition when he is not a legal voter.

PETITION FOR REFERENDUM

To the Honorable ———, secretary of state for the state of Oregon (or to the Honorable ———, clerk, auditor or recorder, as the case may be, of the city of ———):

We, the undersigned citizens and legal voters of the state of Oregon (and the district of ———, county of ———, or city of ———, as the case may be), respectfully order that the senate (or house) bill No. ———, entitled (title of act, and

if the petition is against less than the whole act then set forth here the part or parts on which the referendum is sought), passed by the _____ legislative assembly of the state of Oregon, at the regular (special) session of said legislative assembly, shall be referred to the people of the state (district of _____, county of _____, or city of _____, as the case may be), for their approval or rejection, at the regular (special) election to be held on the _____ day of _____, A. D. 19—, and each for himself says: I have personally signed this petition; I am a legal voter of the state of Oregon, and (district of _____, county of _____, city of _____, as the case may be); my residence and postoffice are correctly written after my name.

Name _____, Residence _____, Postoffice _____
(If in a city, street and number)

(Here follow twenty numbered lines for signatures)

§ 3471. *Form of Initiative Petition.*

The following shall be substantially the form of petition for any law, amendment to the constitution of the state of Oregon, city ordinance or amendment to a city charter, proposed by the initiative:

WARNING

It is a felony for any one to sign any initiative or referendum petition with any other name than his own, or to knowingly sign his name more than once for the same measure, or to sign such petition when he is not a legal voter.

INITIATIVE PETITION

To the Honorable _____, secretary of state for the state of Oregon (or to the Honorable _____, clerk, auditor or recorder, as the case may be, for the city of _____);

We, the undersigned citizens and legal voters of the state of Oregon (and of the district of _____, county of _____, or city of _____, as the case may be), respectfully demand that the following proposed law (or amendment to the constitution, ordinance, or amendment to the city charter, as the case may be), shall be submitted to the legal voters of the state of Oregon (district of _____, county of _____, or city of _____, as the case may be), for their approval or rejection at the regular general election, or (regular or special city election), to be held on the _____ day of _____, A. D. 19—, and each for himself says: I have personally signed this petition; I am a legal voter of the state of Oregon (and of the district of _____, county of _____, city of _____, as the case may be); my residence and postoffice are correctly written after my name.

Name _____, Residence _____, Postoffice _____
(If in a city, street and number)

(Here follow twenty numbered lines for signatures)

§ 3472. *Further of Petitions — Filing and Procedure Thereon — Measures Excepted.*

Before or at the time of beginning to circulate any petition for the referendum to the people on any act passed by the legislative assembly of the state of Oregon, or for any law, amendment to the constitution of the state of Oregon, city ordinance or amendment to a city charter, proposed by the initiative, the person or persons or organization or organizations under whose authority the measure is to be referred or initiated

shall send or deliver to the secretary of state, or city clerk, recorder or auditor, as the case may be, a copy of such petition duly signed which shall be filed by said officer in his office, who shall immediately examine the same and specify the form and kind and size of paper on which such petition shall be printed for circulation for signatures.

To every sheet of petitioners' signatures shall be attached a full and correct copy of the measure so proposed by initiative petition; but such petition may be filed by the secretary of state in numbered sections for convenience in handling. Each sheet of petitioners' signatures upon referendum petitions shall be attached to a full and correct copy of the measure on which referendum is demanded and may be filed in numbered sections in like manner as initiative petitions. Not more than twenty signatures on one sheet shall be counted. When any such initiative or referendum petition shall be offered for filing the secretary of state shall detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative or referendum petitions; provided, all petitions for the initiative and for the referendum and sheets for signatures shall be printed on a good quality of bond or ledger paper on pages eight and a half inches in width by thirteen inches in length, with a margin of one and three-fourths inches at the top for binding; if the aforesaid sheets shall be too bulky for convenient binding in one volume, they may be bound in two or more volumes, those in each volume to be attached to a single printed copy of such measure. If any such measure shall, at the ensuing election, be approved by the people, then the copies thereof so preserved, with the sheets and signatures and affidavits, and a certified copy of the governor's proclamation declaring the same to have been approved by the people, shall be bound together in such form that they may be conveniently identified and preserved. The secretary of state shall cause every such measure so approved by the people to be printed with the general laws enacted by the next ensuing session of the legislative assembly, with the date of the governor's proclamation declaring the same to have been approved by the people. This act shall not apply to the general laws governing the method of determining whether stock of any kind shall be permitted to run at large in any county or portion thereof, nor to the provisions of the local option liquor laws providing methods of determining whether the sale of intoxicating liquors shall be prohibited in any county, city, precinct, ward or district. [L. 1913, Chap. 359, p. 743.]

§ 3473. *Verification of Petition.*

Each and every sheet of every such petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of said petition, by his or her affidavit thereon, and as a part thereof:

State of Oregon, }
County of _____ } ss.

I, _____, being first duly sworn, say: That every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence; I believe that each has stated his or her name, postoffice address and residence correctly, and that each signer is a legal voter of the state of Oregon and county of _____.

_____ (Signature and postoffice address of affiant.)

Subscribed and sworn to before me this _____ day of _____, A. D. 19—.

(Signature and title of officer before whom oath is made and his postoffice address.)

In addition to said affidavit the county clerk of each county in which any such petition shall be signed shall compare the signatures of the electors signing the same with the signatures of the registration cards, books and blanks on file in his office, shall carefully examine said petition and shall attach to the sheets of said petition containing such signatures, his certificate to the secretary of state, substantially as follows:

State of Oregon, }
County of _____ } ss.

To the Honorable _____, secretary of state of the state of Oregon:

I, county clerk of the county of _____, hereby certify that I have compared the signatures on (number of sheets) of the referendum (initiative) petition attached hereto, with the signatures of said electors as they appear on the registration cards, books and blanks in my office, and from such information as I have been able to obtain I believe that the signatures of (names of signers) numbering (number of genuine signatures) are genuine. As to the remainder of the signatures thereon, I believe they are not genuine, except that the following names (_____) do not appear on the registration cards, books and blanks in my office.

(Signed)

_____ (County Clerk.)

(Seal of office)

_____ (Deputy.)

Every such certificate shall be prima facie evidence of the facts stated therein and of the qualifications of the electors whose signatures are thus certified to be genuine, and the secretary of state shall consider and count only such signatures on such petitions as shall be so certified by said county clerk to be genuine; provided, that the secretary of state shall consider and count such of the remaining signatures as shall be proved to be genuine signatures of legal voters. To establish such facts, the official certificate of a notary public of the county in which the signer resides shall be required as to the facts for each of such last-named signatures.

State of Oregon, }
County of _____ } ss.

I, _____, a duly qualified and acting notary public in and for the above-named county and state, do hereby certify: That I am personally acquainted with each of the following named electors whose signatures are affixed to the annexed petition and I know of my own knowledge that they are legal voters of the state of Oregon and of the county written after their several names in the annexed petition, and that their residence and postoffice address is correctly stated therein, to wit: (Names of such electors.)

In testimony whereof I have hereunto set my hand and official seal this _____ day of _____, 19—.

_____ (Notary Public for Oregon.)

The county clerk shall not retain in his possession any such petition or any part thereof for a longer period than two days for the first 200 signatures thereon, and one additional day for each 200 additional signatures or fraction thereof, on the sheets presented to him, and at the expiration of such time he shall deliver the same to the person from whom he received it, with his certificate attached thereto as above provided. The forms herein given are not mandatory and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical errors. [L. 1913, Chap. 359, p. 744; L. 1917, Chap. 176, Sec. 1, pp. 228-230.]

§ 3474. *Mandamus to Compel Filing — Jurisdiction and Procedure.*

If the secretary of state shall refuse to accept and file any petition for the initiative or for the referendum any citizen may apply, within ten days after such refusal, to the circuit court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the secretary of state and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measure. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the supreme court within ten days after a decision is rendered. The circuit court of Marion county shall have jurisdiction in all cases of measures to be submitted to the electors of the state at large; in cases of local and special measures, the circuit court of the county, or of one of the counties in which such measures are to be voted upon, shall have jurisdiction; in cases of municipal legislation the circuit court of the county in which the city concerned is situated shall have jurisdiction.

§ 3475. *Attorney General to Frame Ballot Title — Appeal.*

When a copy of the petition for any measure to be referred to the people of the state, or of any county or district composed of one or more counties, either by the initiative or the referendum, shall be filed with the secretary of state, as provided in Section 3472, Lord's Oregon Laws as amended by Chapter 359, General Laws of Oregon of 1913, or when the submission to the people of any proposed constitutional amendment or measure shall be ordered by the legislative assembly, the secretary of state shall forthwith transmit two copies thereof to the attorney general of the state. Within ten days after receiving said copies the attorney general shall provide a ballot title therefor and return it to the secretary of state, together with the ballot title (for said measure) so prepared by him. A copy of the ballot title as prepared by the attorney general shall be furnished by the secretary of state with his approved form of any initiative

or referendum petition, as provided in Section 3472, Lord's Oregon Laws, as amended, to the person or persons or organization or organizations under whose authority the measure is initiated or referred. Said ballot title shall be used and printed on the covers of the petition when in circulation, the short title shall be printed in type not less than twenty points on the covers of all such petitions circulated for signatures. The ballot title shall contain: (1) The name or names of the person or persons, organization or organizations under whose authority the measure is to be initiated or referred. (2) A distinctive short title not exceeding ten words by which the measure is commonly referred to or spoken of and which shall be printed in the foot margin of each signature sheet of the petition. (3) A general title which may be distinct from the legislative title of the measure, expressing in not more than one hundred words the purpose of the measure. The ballot title shall be printed with the numbers of the measure on the official ballot. In making such ballot title the attorney general shall to the best of his ability give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure. Any person who is dissatisfied with the ballot title or the short title provided by the attorney general for any measure, may appeal from the decision of the circuit court as provided by Section 3474 by petition, praying for a different title and setting forth the reason why the title prepared by the attorney general is insufficient or unfair. No appeal shall be allowed from the decision of the attorney general on a ballot title unless the same is taken within twenty days after said ballot title is filed in the office of the secretary of state. A copy of every such ballot title shall be served by the secretary of state or clerk of the court, upon the person offering or filing such initiative or referendum petition, or appeal. The service of such decision may be by mail or telegraph, and shall be made forthwith when it is received from the attorney general by the secretary of state. Said circuit court shall thereupon examine said measure, hear arguments, and in its decision thereon certify to the secretary of state a ballot title and a short title for the measure in accord with the intent of this section. The decision of the circuit court shall be final. The secretary of state shall print on the official ballot the titles thus certified to him. [L. 1913, Chap. 36, p. 67; L. 1917, Chap. 176, Sec. 2, pp. 230, 231.]

§ 3476. *Designation and Numbering of Measures.*

The secretary of state, at the time he furnishes to the county clerks of the several counties certified copies of the names of the candidates for state and district offices, shall furnish to each of said county clerks his certified copy of the ballot titles and numbers of the several measures to be voted upon at the ensuing general election, and he shall use for each measure the ballot title designated in the manner herein provided. Such ballot title shall not resemble, so far as to probably create confusion, any

such title previously filed for any measure to be submitted at that election; he shall number such measures and such ballot titles shall be printed on the official ballot in the order in which the acts referred by the legislative assembly and petitions by the people shall be filed in his office. The affirmative of the first measure shall be numbered 300 and the negative 301 in numerals, and the succeeding measures shall be numbered consecutively 302, 303, 304, 305, and so on, at each election. It shall be the duty of the several county clerks to print said ballot titles and numbers upon the official ballot in the order presented to them by the secretary of state and the relative position required by law. Measures referred by the legislative assembly shall be designated by the heading "Referred to the People by the Legislative Assembly;" measures referred by petition shall be designated "Referendum Ordered by Petition of the People;" measures proposed by initiative petition shall be designated and distinguished on the ballot by the heading "Proposed by Initiative Petition." [L. 1913, Chap. 359, p. 745.]

§ 3477. *Manner of Voting — Result, How Determined.*

The manner of voting upon measures submitted to the people shall be the same as is now or may be required and provided by law; no measure shall be adopted unless it shall receive an affirmative majority of the total number of respective votes cast on such measure and entitled to be counted under the provisions of this act; that is to say, supposing 70,000 ballots to be properly marked on any measure, it shall not be adopted unless it shall receive more than 35,000 affirmative votes. If two or more conflicting laws shall be approved by the people at the same election, the law receiving the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such law may not have received the greatest majority of affirmative votes. If two or more conflicting amendments to the constitution shall be approved by the people at the same election, the amendment which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is conflict, even though such amendment may not have received the greatest majority of affirmative votes.

§ 3478. *Measures and Arguments to Be Printed and Distributed.*

Not later than the ninetieth day before any regular general election, nor later than thirty days before any special election, at which any proposed law, part of an act or amendment to the constitution is to be submitted to the people, the secretary of state shall cause to be printed in pamphlet form a true copy of the title and text of each measure to be submitted, with the number and form in which the ballot title thereof will be printed on the official ballot. The person, committee or duly organized officers of any organization filing any petition for the initiative, but no other person or organization, shall have the right to file with the secretary

of state for printing and distribution any argument advocating such measure; said argument shall be filed not later than the one hundred and fifteenth day before the regular election at which the measure is to be voted upon. Any person, committee or organization may file with the secretary of state, for printing and distribution, any arguments they may desire, opposing any measure, not later than the one hundred and fifth day immediately preceding such election. Arguments advocating or opposing any measure referred to the people by the legislative assembly, or by referendum petition, at a regular general election, shall be governed by the same rules as to time, but may be filed with the secretary of state by any person, committee or organization; in the case of measures submitted at a special election, all arguments in support of such measure at least sixty days before such election. But in every case the person or persons offering such arguments for printing and distribution shall pay to the secretary of state sufficient money to pay all the expenses for paper and printing to supply one copy with every copy of the measure to be printed by the state; and he shall forthwith notify the persons offering the same of the amount of money necessary. The secretary of state shall cause one copy of each of said arguments to be bound in the pamphlet copy of the measures to be submitted as herein provided, and all such measures and arguments to be submitted at one election shall be bound together in a single pamphlet. All the printing shall be done by the state, and the pages of said pamphlet shall be numbered consecutively from one to the end. The pages of said pamphlet shall be six by nine inches in size, and the printed matter therein shall be set in six-point Roman-faced solid type on not to exceed seven point body, in two columns of thirteen ems in width each to the page, with six-point dividing rule and with appropriate heads, and printed on a good quality of book paper twenty-five by thirty-eight inches, weighing not more than fifty pounds to the ream. The title page of every measure bound in said pamphlet shall show its ballot title and ballot number. The title page of each argument shall show the measure or measures it favors or opposes and by what persons or organization it is issued. When such arguments are printed he shall pay the state printer therefor from the money deposited with him and refund the surplus, if any, to the parties who paid it to him. The cost of printing, binding and distributing the measures proposed and of binding and distributing the arguments, shall be paid by the state as a part of the state printing, it being intended that only the cost of paper and printing the arguments shall be paid by the parties presenting the same, and they shall not be charged any higher rate for such work than is paid by the state for similar work and paper. Not later than the fifty-fifth day before the regular general election at which such measures are to be voted upon the secretary of state shall transmit by mail, with postage fully prepaid, to every voter in the state, whose address he may have, one copy of such pamphlet; provided, that if the secretary shall, at or about the same time be mailing any other pamphlet to every voter, he may, if practicable, bind the matter herein

provided for in the first part of said pamphlet, numbering the pages of the entire pamphlet consecutively from one to the end, or he may enclose the pamphlets under one cover. In case of a special election he shall mail said pamphlet to every voter not less than twenty days before said special election. [L. 1913, Chap. 359, p. 745.]

§ 3479. *Counting and Canvass — Proclamation of Result.*

The votes on measures and questions shall be counted, canvassed and returned by the regular boards of judges, clerks and officers, as votes for candidates are counted, canvassed and returned, and the abstract made by the several county clerks of votes on measures shall be returned to the secretary of state on separate abstract sheets, in the manner provided by Section 3419, for abstracts of votes for state and county officers. It shall be the duty of the secretary of state in the presence of the governor, to proceed within thirty days after the election, and sooner if the returns be all received, to canvass the votes given for each measure, and the governor shall forthwith issue his proclamation, giving the whole number of votes cast in the state for and against each measure and question, and declaring such measures as are approved by majority of those voting thereon to be in full force and effect as the law of the state of Oregon from the date of said proclamation; provided, that if two or more measures shall be approved at said election which are known to conflict with each other or to contain conflicting provisions he shall also proclaim which is paramount in accordance with the provisions of Section 3477.

§ 3480. *Procedure in Cities and Towns.*

In all cities and towns which have not or may not provide by ordinance or charter for the manner of exercising the initiative and referendum powers reserved by the constitution to the people thereof, as to their municipal legislation, the duties required of the secretary of state by this act, as to state legislation, shall be performed as to such municipal legislation by the city auditor, clerk or recorder, as the case may be; the duties required by the governor shall be performed by the mayor as to such municipal legislation, and the duties required by this act of the attorney general shall be performed by the city attorney as to such municipal legislation. The provisions of this act shall apply in every city and town in all matters concerning the operation of the initiative and referendum in its municipal legislation on which such city or town has not made or does not make conflicting provisions. The printing and binding of measures and arguments in municipal legislation shall be paid for by the city in like manner as payment is provided for by the state as to state legislation by Section 3478, and said printing shall be done in the same manner that other municipal printing is done; distribution of said pamphlets shall be made to every voter in the city, so far as possible, by the city clerk, auditor or recorder, as the case may be, either by mail or carrier, not less

than eight days before the election at which the measures are to be voted upon. Arguments supporting municipal measures shall be filed with the city clerk, auditor or recorder, not less than thirty days before the election at which they are to be voted upon; opposing arguments shall be filed not less than twenty days before said election. It is intended to make the procedure in municipal legislation as nearly as practicable the same as the initiative and referendum procedure for measures relating to the people of the state at large.

§ 3481. *Signatures Required on Referendum — When City Registration to Take Effect.*

Referendum petitions against any ordinance, franchise or resolution passed by a city council shall be signed by not less than ten per cent of the voters of said city, and said signatures shall be verified in the manner herein provided; the petition shall be filed with the city clerk, auditor, or recorder, as the case may be, within thirty days after the passage of such ordinance, resolutions or franchise. No city ordinance, resolution, or franchise shall take effect and become operative until thirty days after its passage by the council and approved by the mayor, unless the same shall be passed over his veto, and in that case it shall not take effect and become operative until thirty days after such final passage, except measures necessary for the immediate preservation of the peace, health or safety of the city; and no such emergency measure shall become immediately operative unless it shall state in a separate section the reasons why it is necessary that it should become immediately operative, and shall be approved by the affirmative vote of three-fourths of all the members elected to the city council, taken by ayes and noes, and also approved by the mayor.

§ 3482. *Initiative Measures in Cities.*

If any ordinance, charter or amendment to the charter to any city shall be proposed by initiative petition, said petition shall be filed with the city clerk, auditor or recorder, as the case may be, and he shall transmit it to the next session of the city council. The council shall either ordain or reject the same, as proposed, within thirty days thereafter, and if the council shall reject said proposed ordinance or amendment, or shall take no action thereon, then the city clerk, auditor or recorder, as the case may be, shall submit the same to the voters of the city or town at the next ensuing election held therein not less than ninety days after the same was first presented to the city council. The council may ordain said ordinance or amendment and refer it to the people, or it may ordain such ordinance without referring it to the people, and in that case it shall be subject to referendum petition in like manner as other ordinances; if the council shall reject said ordinance or amendment, or take no action thereon, it may ordain a competing ordinance or amendment, which shall be submitted by the city clerk, auditor or recorder, as the case may be, to the

people of said city or town, at the same election at which said initiative proposal is submitted. Such competing ordinance or amendment, if any, shall be prepared by the council and ordained within thirty days allowed for its action on the measure proposed by initiative petition. The mayor shall not have power to veto either of such measures. If conflicting ordinances or charter amendments shall be submitted to the people at the same election, and two or more of such conflicting measures shall be approved by the people, then the measure which shall have received the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such measure may not have received the greatest majority. Amendments to any city charter may be proposed and submitted to the people by the city council, with or without an initiative petition, but the same shall be filed with the city clerk for submission not less than sixty days before the election at which they are to be voted upon, and no amendment of a city charter shall be effective until it is approved by a majority of the votes cast thereon by the people of the city or town to which it applies. The city council may by ordinance order special elections to vote on municipal measures.

§ 3483. Qualifications of Signers of Petitions — Penalties.

Every person who is a qualified elector of the state of Oregon may sign a petition for the referendum or for the initiative for any measure which he is legally entitled to vote upon. Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of this state, or any officer or person wilfully violating any provision of this statute, shall, upon conviction thereof, be punished by a fine not exceeding \$500.00, or by imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment, in the discretion of the court before which such conviction shall be had.

§ 3484. Referendum on Laws Affecting County or District.

That any law enacted by the legislative assembly, relating only to any county or district in the state of Oregon, other than municipal corporations, may be referred to the people of such county or district for their approval or rejection in the same manner as now or hereafter provided by law for the reference of general laws to the people of the entire state, excepting that when any law relates only to one county the county clerk shall be substituted for the secretary of state, the district attorney for the attorney general, and the county judge for the governor. When any law affects any district consisting of more than one county, it shall be referred in the manner provided for the reference of acts affecting the entire state, except that the petition therefor shall be signed only by the voters of

such district, and in both counties and districts the percentage shall be computed on the vote at the preceding election in such county or district for supreme judge.

§ 3485. *Secretary of State to Be Notified and Result Certified to Him.*

When any petition for the referendum is filed with any county clerk, he shall notify the secretary of state, by registered letter, of that fact, and when the election thereon has been held, and the vote thereon canvassed, he shall certify the result to the secretary of state in like manner.

CALIFORNIA.

CONSTITUTIONAL PROVISIONS.

[Article IV, Section 1, of the Constitution, as amended October 10, 1911.]

The legislative power of this state shall be vested in a senate and assembly which shall be designated "The Legislature of the State of California," but the people reserve to themselves the power to propose laws and amendments to the constitution, and to adopt or reject the same, at the polls independent of the legislature, and also reserve the power, at their own option, to so adopt or reject any act, or section or part of any act, passed by the legislature. The enacting clause of every law shall be "The people of the State of California do enact as follows:".

The first power reserved to the people shall be known as the initiative. Upon the presentation to the secretary of state of a petition certified as herein provided to have been signed by qualified electors, equal in number to eight per cent of all the votes cast for all candidates for governor at the last preceding general election, at which a governor was elected, proposing a law or amendment to the constitution, set forth in full in said petition, the secretary of state shall submit the said proposed law or amendment to the constitution to the electors at the next succeeding general election occurring subsequent to ninety days after the presentation aforesaid of said petition, or at any special election called by the governor in his discretion prior to such general election. All such initiative petitions shall have printed across the top thereof in twelve point black-face type the following: "Initiative measure to be submitted directly to the electors."

Upon the presentation to the secretary of state, at any time not less than ten days before the commencement of any regular session of the legislature, of a petition certified as herein provided to have been signed by qualified electors of the state equal in number to five per cent of all the votes cast for all candidates for governor at the last preceding general election, at which a governor was elected, proposing a law set forth in full in said petition, the secretary of state shall transmit the same to the legislature as soon as it convenes and organizes. The law proposed by such petition shall be either enacted or rejected without change or amend-

ment by the legislature, within forty days from the time it is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided. If any law so petitioned for be rejected, or if no action is taken upon it by the legislature, within said forty days, the secretary of state shall submit it to the people for approval or rejection at the next ensuing general election. The legislature may reject any measure so proposed by initiative petition and propose a different one on the same subject by a yea and nay vote upon separate roll call, and in such event both measures shall be submitted by the secretary of state to the electors for approval or rejection at the next ensuing general election or at a prior special election called by the governor, in his discretion, for such purpose. All said initiative petitions last above described shall have printed in twelve point black-face type the following: "Initiative measure to be presented to the legislature."

The second power reserved to the people shall be known as the referendum. No act passed by the legislature shall go into effect until ninety days after the final adjournment of the session of the legislature which passed such act, except acts calling elections, acts providing for tax levies or appropriations for the usual current expenses of the state, and urgency measures necessary for the immediate preservation of the public peace, health or safety, passed by a two-thirds vote of all the members elected to each house. Whenever it is deemed necessary for the immediate preservation of the public peace, health or safety that a law shall go into immediate effect, a statement of the facts constituting such necessity shall be set forth in one section of the act, which section shall be passed only upon a yea and nay vote, upon a separate roll call thereon; *provided, however*, that no measure creating or abolishing any office or changing the salary, term or duties of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be construed to be an urgency measure. Any law so passed by the legislature and declared to be an urgency measure shall go into immediate effect.

Upon the presentation to the secretary of state within ninety days after the final adjournment of the legislature of a petition certified as herein provided to have been signed by qualified electors equal in number to five per cent of all the votes cast for all candidates for governor at the last preceding general election at which a governor was elected, asking that any act or section or part of any act of the legislature be submitted to the electors for their approval or rejection, the secretary of state shall submit to the electors for their approval or rejection, such act, or section or part of such act at the next succeeding general election occurring at any time subsequent to thirty days after the filing of said petition or at any special election which may be called by the governor, in his discretion, prior to such regular election, and no such act or section or part of such act shall go into effect until and unless approved by a majority of the qualified electors voting thereon; but if a referendum petition is filed

against any section or part of any act the remainder of such act shall not be delayed from going into effect.

Any act, law or amendment to the constitution submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon, at any election, shall take effect five days after the date of the official declaration of the vote by the secretary of state. No act, law or amendment to the constitution, initiated or adopted by the people, shall be subject to the veto power of the governor, and no act, law or amendment to the constitution, adopted by the people at the polls under the initiative provisions of this section, shall be amended or repealed except by a vote of the electors, unless otherwise provided in said initiative measure; but acts and laws adopted by the people under the referendum provisions of this section may be amended by the legislature at any subsequent session thereof. If any provision or provisions of two or more measures, approved by the electors at the same election, conflict, the provision or provisions of the measure receiving the highest affirmative vote shall prevail. Until otherwise provided by law, all measures submitted to a vote of the electors, under the provisions of this section, shall be printed, and together with arguments for and against each such measure by the proponents and opponents thereof, shall be mailed to each elector in the same manner as now provided by law as to amendments to the constitution, proposed by the legislature; and the persons to prepare and present such arguments shall, until otherwise provided by law, be selected by the presiding officer of the senate.

If for any reason any initiative or referendum measure, proposed by petition as herein provided, be not submitted at the election specified in this section, such failure shall not prevent its submission at a succeeding general election, and no law or amendment to the constitution, proposed by the legislature, shall be submitted at any election unless at the same election there shall be submitted all measures proposed by petition of the electors, if any be so proposed, as herein provided.

Any initiative or referendum petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure. Each signer shall add to his signature his place of residence, giving the street and number if such exist. His election precinct shall also appear on the paper after his name. The number of signatures attached to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the state shall be competent to solicit said signatures within the county or city and county of which he is an elector. Each section of the petition shall bear the name of the county or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating his own qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name

it purports to be, and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer oaths. Such petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing the same are qualified electors. Unless and until it be otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified electors.

Each section of the petition shall be filed with the clerk or registrar of voters of the county or city and county in which it was circulated, but all said sections circulated in any county or city and county shall be filed at the same time. Within twenty days after the filing of such petition in his office the said clerk, or registrar of voters, shall determine from the records of registration what number of qualified electors have signed the same, and if necessary the board of supervisors shall allow said clerk or registrar additional assistants for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to said petition, except the signatures thereto appended, his certificate, properly dated, showing the result of said examination and shall forthwith transmit said petition, together with his said certificate, to the secretary of state and also file a copy of said certificate in his office. Within forty days from the transmission of the said petition and certificate by the clerk or registrar to the secretary of state, a supplemental petition identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid. The clerk or registrar of voters shall within ten days after the filing of such supplemental petition make like examination thereof, as of the original petition, and upon the completion of such examination shall forthwith attach to said petition his certificate, properly dated, showing the result of said examination, and shall forthwith transmit a copy of said supplemental petition, except the signatures thereto appended, together with his certificate, to the secretary of state.

When the secretary of state shall have received from one or more county clerks or registrars of voters a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the state his certificate showing such fact. A petition shall be deemed to be filed with the secretary of state upon the date of the receipt by him of a certificate or certificates showing said petition to be signed by the requisite number of electors of the state. Any county clerk or registrar of voters shall, upon receipt of such copy, file the same for record in his office. The duties herein imposed upon the clerk or registrar of voters shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

The initiative and referendum powers of the people are hereby further reserved to the electors of each county, city and county, city and town

of the state, to be exercised under such procedure as may be provided by law. Until otherwise provided by law, the legislative body of any such county, city and county, city or town may provide for the manner of exercising the initiative and referendum powers herein reserved to such counties, cities and counties, cities and towns, but shall not require more than fifteen per cent of the electors thereof to propose any initiative measure nor more than ten per cent of the electors thereof to order the referendum. Nothing contained in this section shall be construed as affecting or limiting the present or future powers of cities or cities and counties having charters adopted under the provisions of section eight of article eleven of this constitution. In the submission to the electors of any measure under this section, all officers shall be guided by the general laws of this state, except as is herein otherwise provided. This section is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting either the provisions of this section or the powers herein reserved.

STATUTORY PROVISIONS.

ATTORNEY-GENERAL TO PREPARE TITLE AND SUMMARY FOR INITIATIVE MEASURES.

[Political Code, Section 1197a, adopted 1915—Chapter 42, Statutes of 1915.]

It shall be the duty of the proponents of any initiative measure relating to the constitution or the laws of the State of California, prior to circulating any petition for signatures thereon, to submit a draft of said petition to the attorney general with a request that he prepare a title, and summary of the chief purposes and points of said proposed measure. Such title and summary shall forthwith be prepared in the manner provided for the preparation of ballot titles in paragraph three of section one thousand one hundred ninety-seven of the Political Code. Said title and summary shall not exceed one hundred words in all.

HEADING ON EACH PAGE OF PETITION.

[Political Code, Section 1197b, adopted 1915—Chapter 42, Statutes of 1915.]

The proponents of any proposed initiative measure shall place upon each section of the petition in relation thereto above the text of the measure the title and summary referred to in section one thousand one hundred ninety-seven a of the Political Code not exceeding one hundred words in all. Across the top of each page of any petition asking that any act or section, or part of any act of the legislature be submitted to the electors for their approval or rejection, there shall be printed in twelve-point black-face type the following:

"Referendum against An Act passed by the Legislature."

Across the top of each page after the first page of every initiative, referendum or recall petition or section thereof which may be prepared

and circulated in accordance with law there shall be printed in eighteen-point gothic type a short title, in not to exceed twenty words, showing the nature of the petition and the subject to which it relates.

No officer chargeable by law with receiving or filing in his office any initiative, referendum or recall petition shall receive or file any such petition which does not conform with the provisions of this section. This section shall apply only to initiative, referendum and recall measures affecting the constitution or laws of the state, or state officers.

CO-OPERATION IN PREPARATION OF INITIATIVE MEASURES BY CHIEF OF LEGISLATIVE COUNSEL BUREAU.

[Chapter 41, Statutes of 1915.]

. . . It shall also be the duty of the chief of the legislative counsel bureau, whenever in his judgment there is reasonable probability that an initiative measure will be submitted to the voters of the State of California under the laws of the state relating to the submission of measures by initiative, to co-operate with the proponents of said measure in the preparation of said law when requested in writing so to do by twenty-five or more electors proposing such a measure.

WHO QUALIFIED TO SIGN PETITION.

[Political Code, Section 1083a, as amended by Chapter 138, Statutes of 1915.]

Wherever, by the constitution or laws of this state, any initiative, referendum, recall or nominating petition or paper, or any petition or paper, is required to be signed by qualified electors, only an elector who is a registered qualified elector at the time he signs such petition or paper shall be entitled to sign the same, and no elector shall be entitled to sign any such petition or paper on or after the first day of January of an even-numbered year unless he shall, on or since said first day of January, have made an affidavit of registration as required by law. Such signer shall at the time of so signing such petition or paper affix thereto the date of such signing. Wherever, by the constitution or laws of this state, the county clerk or registrar of voters is required to determine from the records of registration what number of qualified electors have signed such petition or paper, he shall determine that fact with respect to the purported signature of any person from the affidavit of registration, and records relating thereto, current and in effect at the date of such signing of such petition or paper.

PENALTY FOR SIGNING FICTITIOUS NAME OR NAME OF ANOTHER.

[Penal Code, Section 472a, adopted 1915—Chapter 43, Statutes of 1915.]

Every person who subscribes to any initiative, referendum or recall petition or to any nominating petition a fictitious name, or who subscribes thereto the name of another, is guilty of a felony and is punishable by imprisonment in the state prison for not less than one nor more than fourteen years.

PRESERVATION OF PETITIONS.

[Political Code, Section 1194, adopted 1915—Chapter 152, Statutes of 1915.]

The secretary of state shall preserve for a period of four years in his office all initiative, referendum and recall petitions filed therein under the provisions of law and shall thereafter destroy the same unless they have been introduced in evidence in some action or proceeding then pending.

ARIZONA.

CONSTITUTIONAL PROVISIONS.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

1. *Initiative and Referendum.*

SEC. 1. (1) The legislative authority of the state shall be vested in a Legislature, consisting of a Senate and a House of Representatives, but the people reserve the power to propose laws and amendments to the Constitution and to enact or reject such laws and amendments at the polls, independently of the Legislature; and they also reserve, for use at their own option, the power to approve or reject at the polls any Act, or item, section, or part of any Act, of the Legislature.

(2) The first of these reserved powers is the Initiative. Under this power ten per centum of the qualified electors shall have the right to propose any measure, and fifteen per centum shall have the right to propose any amendment to the Constitution.

(3) The second of these reserved powers is the Referendum. Under this power the Legislature, or five per centum of the qualified electors, may order the submission to the people at the polls of any measure, or item, section, or part of any measure, enacted by the Legislature, except laws immediately necessary for the preservation of the public peace, health, or safety, or for the support and maintenance of the departments of the State Government and State institutions, . . .

STATUTORY PROVISIONS.

REVISED STATUTES, 1913.

TITLE XXII.

CHAPTER I. — INITIATIVE AND REFERENDUM.

(Chapter 12, Laws 1913, Third Special Session.)

3323. The following shall be substantially the form of petition for referring to the people under the use of the referendum by petition any measure or item, section, or part of any measure enacted by the legislature of the state of Arizona, or by the legislative body of any incorporated city, town or county.

WARNING.

It is a felony for any one to sign any initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the same measure, or knowingly to sign such petition when he is not a qualified elector.

PETITION FOR REFERENDUM.

To the Honorable....., Secretary of State for the state of Arizona (or to the clerk of the board of supervisors, city clerk, or corresponding officer, in the case of petitions for or on local county, city, or town measures):

We, the undersigned citizens and qualified electors of the state of Arizona, respectfully order that the senate (or house) bill No. or other local county, city, or town measure, entitled (title of act or ordinance, and if the petition is against less than the whole act or ordinance then set forth here the item, section, or part, of any measure on which the referendum is used), passed by the session of said legislature of the state of Arizona, at the general (or special, as the case may be) session of said legislature (or by county, city or town legislative body) shall be referred to a vote of the qualified electors of the state (county, city or town) for their approval or rejection at the next regular general election (or city or town election) and each for himself says: I have personally signed this petition; I have not signed any other petition for the same measure; I am a qualified elector for the state of Arizona, county of (or city and county of, as the case may be,) and my place of residence (including street and number, if such exist,) is correctly written after my name.

1. Name.....; Residence.....;
Post Office.....; Date.....

(If in a city, street and number.)

(Here follow twenty numbered lines for signatures.)

3324. The following shall be substantially the form of petition for any law or amendment to the constitution of the state of Arizona, or county legislative measure or city ordinance or amendment to a city charter proposed by the initiative to be submitted directly to the electors:

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS.

(In twelve point black face type.)

WARNING.

It is a felony for any one to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the same measure, or proposed constitutional amendment, or knowingly to sign such petition when he is not a qualified elector.

INITIATIVE PETITION.

To the Honorable....., Secretary of State for the state of Arizona (or to the clerk of the board of supervisors, city clerk, or corresponding officer, in the case of petitions for or on local county, city, or town measures):

We, the undersigned citizens and qualified electors of the state of Arizona, respectfully demand that the following proposed law (or amendment of the constitution, or other initiative measure, as the case may be) shall be submitted to the qualified electors of the state of Arizona (county, city, or town of.....) for their approval or rejection at the next regular general election (or county, city,

or town election), and each for himself says: I have personally signed this petition; I have not signed any other petition for the same measure; I am a qualified elector of the state of Arizona, county of (or city, town or county of, as the case may be); and my place of residence (including street and number, if they exist) is correctly written after my name.

1. Name.....; Residence.....;
Post Office.....; Date.....

(If in a city, street and number.)

(Here follow twenty numbered lines for signatures.)

3325. Every such sheet for petitioners' signatures shall be attached to a full and correct copy of the title and text of the measure, or proposed amendment to the constitution, so proposed by the initiative petition; but such petition may be filed with the secretary of state in numbered sections for convenience in handling, and referendum petitions shall be attached to a full and correct copy of the title and text of the measure on which the referendum is used and may be filed in numbered sections in like manner. Not more than twenty signatures on one sheet shall be counted. When any such initiative or referendum petition shall be offered for filing, the secretary of state, in the presence of the governor and the person offering the same for filing, shall detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by the initiative, or item, section, measure or part of any measure on which a referendum petition is filed; provided, that all petitions for the initiative and for the referendum and sheets for signatures shall be printed on pages seven inches in width by ten inches in length, with a margin of one and three-fourths inches at the top for binding; if the aforesaid sheets shall be too bulky for convenient binding in one volume, they may be bound in two or more volumes, those in each volume to be attached to a single printed copy of such measure, or proposed amendment to the constitution; the detached copies of such measure, or proposed constitutional amendment, shall be delivered to the person offering the same for filing. If any such measure or proposed constitutional amendment shall, at the ensuing election, be approved by the people, then the copies thereof so preserved, with the sheets and signatures and affidavits, and a certified copy of the governor's proclamation declaring the same to have been approved by the people, shall be bound together in such form that they may be conveniently identified and preserved. The secretary of state shall cause every measure or constitutional amendment submitted under the powers of the initiative, so approved by the people, to be printed with the general laws enacted by the next ensuing session of the legislature, with the date of the governor's proclamation declaring the same to have been approved by the people.

3326. Each and every sheet of every petition containing signatures shall be verified on the back thereof, in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon as a part thereof:

State of Arizona, }
 County of..... } ss:

I,, being first duly sworn say: (here shall be legibly written or typewritten the names of the signers of the sheet) signed this sheet of the foregoing petition, in my presence, and each of them, signed his name thereto in my presence; I believe that each has stated his name, post office address, and residence correctly, and that each signer is a qualified elector of the state of Arizona and county of..... (or of the city of..... as the case may be).

(Signature and post office address of affiant.)

Subscribed and sworn to before me this.....day
 of.....19.....

(Signature and title of officer before whom oath is made, and his post-office address.)

The forms herein given are not mandatory, and if substantially followed in any petition it shall be sufficient, disregarding clerical and merely technical errors.

3327. If the secretary of state shall refuse to accept and file any petition for the initiative if presented not less than four calendar months preceding the date of the election at which the measures or proposed constitutional amendments so proposed are to be voted upon, or for the referendum if filed not more than ninety days after the final adjournment of the session of the legislature which shall have passed the measure to which the referendum is applied, any citizen may apply, within ten days after such refusal, to the superior court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the secretary of state and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and number of the measure or proposed amendment to the constitution set forth in such petition. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the supreme court within ten days after the decision is rendered. The superior court of Maricopa county shall have jurisdiction in all cases of measures or proposed constitutional amendments to be submitted to the electors of the state at large; in cases of local and special measures, the superior court of the county, or of one of the counties in which such measures are to be voted upon, shall have jurisdiction; in case of municipal legislation, the superior court of the county in which the city concerned is situated shall have jurisdiction.

3328. When any initiative or referendum petition or any measure or amendment to the constitution referred to the people by the legislature shall be regularly and legally filed, with the secretary of state, he shall cause to be printed on the official ballot at the next regular general election the title and number of said measure or proposed constitutional

amendment, together with the words "Yes" and "No" in such manner that the electors may express at the polls their approval or disapproval of the measure or proposed amendment.

3329. The secretary of state at the time he furnishes to the clerks of the boards of supervisors of the several counties certified copies of the names of the candidates for state and other offices, shall furnish to each of said clerks his certified copy of the titles and numbers of the several measures and proposed amendments to the constitution to be voted upon at the ensuing regular general election. The affirmative of the first measure shall be numbered 300, and the negative 301 in numerals, and the succeeding measures shall be numbered consecutively 302, 303, 304, 305, and so on, at each election. Proposed constitutional amendments shall be similarly numbered beginning with the number 101. Proposed constitutional amendments shall be placed by themselves at the head of the ballot column, followed by the measures referred. It shall be the duty of the several clerks to have printed said titles and numbers upon the official ballot in the order presented to them by the secretary of state and in the relative positions required by law. Proposed constitutional amendments shall be designated "Proposed amendments to the constitution." Said amendments shall be divided into two subdivisions designated and arranged respectively as "a" Proposed by the Legislature, and "b" Proposed by Initiative. Measures referred by the legislature shall be designated by the heading "Referred to the people by the legislature;" measures referred by petition shall be designated "Referendum ordered by petition of the people;" measures proposed by initiative petition shall be designated and distinguished on the ballot by the heading "Proposed by initiative petition."

Whenever any act is referred to a vote of the people by direction of the legislature, or by referendum petition, there shall be printed on the official ballot in one line immediately after the title of each measure submitted as herein provided the following:

If you favor the above law, vote YES; if opposed, vote NO.

3331. The manner of voting upon measures and proposed constitutional amendments submitted to the people shall be the same as is now or may be required and provided by law; no measure or proposed amendment to the constitution shall be adopted unless it shall receive an affirmative majority of the total number of respective votes cast on such measure and entitled to be counted under the provisions of this title; that is to say, supposing forty thousand ballots to be properly marked on any measure, it shall not be adopted unless it shall receive more than twenty thousand affirmative votes. If two or more conflicting laws or proposed constitutional amendments shall be approved by the people at the same election, the law or proposed amendments receiving the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such law may not have received

the greatest majority of affirmative votes. If two or more conflicting amendments to the constitution shall be approved by the people at the same election, the amendment which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such amendment may not have received the greatest majority of affirmative votes.

3332. Not later than the first Monday of the third month next before any regular general election, nor later than thirty days before any special election, at which any proposed law, part of an act, or amendment to the constitution is to be submitted to the people, the secretary of state shall, unless a special session of a legislature adjourn at such a time as to render it impossible so to do, cause to be printed in pamphlet form a true copy of the title and text of each proposed constitutional amendment and measure to be submitted, with the number and form in which the ballot title thereof will be printed on the official ballot. In case a special session adjourns at such a time as to render the above impossible, the secretary of state shall proceed with such dispatch as he may be able, and in the spirit of this section. The person, committee, or duly authorized officers of any organization, filing any petition under the initiative, but no other person or organization, shall have the right to file with the secretary of state for printing and distribution any argument advocating the measure or proposed constitutional amendment set forth in such petition; said argument shall be filed not later than the first Monday of the fourth month before the regular election at which the measure is to be voted upon. Any person, committee or organization may file with the secretary of state, for printing and distribution, any arguments they may desire, opposing any measure, or proposed constitutional amendment, not later than the fourth Monday of the fourth month immediately preceding such election. Arguments advocating or opposing any measures referred to the people by the legislature, or by referendum petition, at a regular general election, shall be governed by the same rules as to time, but may be filed with the secretary of state by any person, committee or organization; in the case of measures or proposed constitutional amendments submitted at a special election, all arguments in support of such measure or proposed amendment must be filed at least sixty days before such election. But in every case the person or persons offering such arguments for printing and distribution shall pay to the secretary of state sufficient money to pay all the expenses for paper and printing to supply one copy with every copy of the measure or proposed constitutional amendment to be printed by the state; and he shall forthwith notify the persons offering the same of the amount of money necessary. The secretary of state shall cause one copy of each of said arguments to be bound in the pamphlet copy of the measures and proposed constitutional amendments to be submitted as herein provided and all such measures and proposed constitutional amendments and argu-

ments to be submitted at one election shall be bound together in a single pamphlet. All the printing shall be done at the expense of the state, and the pages of said pamphlet shall be numbered consecutively from one to the end. The pages of said pamphlet shall be six by nine inches in size, and the printed matter thereon shall be set in eight point Roman faced type, single leaded, and twenty-five ems in width, with appropriate heads, and printed on sized and super calendered paper twenty-five by thirty-eight inches, weighing fifty pounds to the ream. The title page of every measure and proposed constitutional amendment bound in said pamphlet shall show its ballot title and ballot numbers. The title page of each argument shall show the measure or measures or proposed constitutional amendments it favors or opposes and by what persons or organizations it is issued. When such arguments are printed, the secretary of state shall pay therefor from the money deposited with him and refund the surplus, if any, to the parties who paid it to him. The cost of printing, binding, and distributing the measures and proposed constitutional amendments proposed, and of binding and distributing the arguments, shall be paid by the state as a part of the state printing, it being intended that only the cost of the paper and printing the arguments shall be paid by the parties presenting the same, and they shall not be charged any higher rate for such work than is paid by the state for similar work and paper. Not later than the fifty-fifth day before the regular general election at which the measures or proposed constitutional amendments are to be voted upon the secretary of state shall transmit by mail, with postage fully prepaid, to every voter in the state whose address he may have one copy of such pamphlet, and shall continue mailing the pamphlets as rapidly thereafter as the names are received from the county recorders of the different counties of the state, until all registered voters have been supplied with a copy of the publicity pamphlet; provided that if the secretary shall, at or about the same time, be mailing any other pamphlet to every voter, he may, if practicable, bind the matter herein provided for in the first part of said pamphlet, numbering the pages of the entire pamphlet, consecutively from one to the end, or he may enclose the pamphlets under one cover. In the case of a special election he shall mail said pamphlet to every voter not less than twenty days before said special election.

3333. The votes on measures and proposed constitutional amendments shall be counted, canvassed, and returned by the regular boards of judges, clerks, and officers as votes for candidates are counted, canvassed and returned, and the abstract made by the clerks of the boards of supervisors of the several counties of votes on measures and proposed constitutional amendments shall be returned to the secretary of state on separate abstract sheets, in the manner provided by law. It shall be the duty of the secretary of state, in the presence of the governor and the chief justice of the supreme court, to proceed within thirty days after the election, and sooner if the returns be all received, to canvass the votes given for each measure and proposed constitutional amendment; and the governor shall

forthwith issue his proclamation, giving the whole number of votes cast in the state for and against each measure and proposed constitutional amendment, and declaring such measures and proposed constitutional amendments as are approved by majority of those voting thereon to be in full force and effect as the law of the state of Arizona from the date of said proclamation; provided, that if two or more measures or proposed constitutional amendments shall be approved at said election, which are known to conflict with each other or to contain conflicting provisions, he shall also proclaim which is paramount in accordance with the provisions of section 7, paragraph 3331, of this title.

3334. In all cities and towns which have not or may not provide by ordinance and charter for the manner of exercising the initiative and referendum powers reserved by the constitution to the people thereof, as to their municipal legislation, the duties required of the secretary of state by this title, as to state legislation, shall be performed as to such municipal legislation by the city auditor, clerk, or recorder, as the case may be; the duties required of the governor shall be performed by the mayor as to such municipal legislation, and the duties required by this title of the attorney general shall be performed by the city attorney as to such municipal legislation. The provisions of this title shall apply in every city and town in all matters concerning the operation of the initiative and referendum in its municipal legislation, on which said city or town has not made or does not make conflicting provisions. The printing and binding of measures and arguments in municipal legislation shall be paid for by the city in like manner as payment is provided for by the state as to state legislation by Section 8, Paragraph 3332, of this title, and said printing shall be done in the same manner that other municipal printing is done; distribution of said pamphlets shall be made to every voter in the city, so far as possible, by the city clerk, auditor or recorder, as the case may be, either by mail or carrier, not less than eight days before the election at which the measures are to be voted upon. Arguments supporting municipal measures shall be filed with the city clerk, auditor or recorder, not less than thirty days before the election at which they are to be voted upon; opposing arguments shall be filed not less than twenty days before said election. It is intended to make the procedure in municipal legislation as nearly as practicable the same as the initiative and referendum procedure for measures relating to the people of the state at large.

3335. Referendum petitions against any ordinance, franchise or resolution, passed by a city council shall be signed by not less than ten per cent of the voters of said city; and said signatures shall be verified in the manner herein provided; the petition shall be filed with the city clerk, auditor, or recorder, as the case may be, within thirty days after the passage of such ordinance, resolutions, or franchise. No city ordinance, resolution or franchise shall take effect and become operative until thirty days after its passage by the council and approval by the mayor, unless the same shall be passed over his veto, and in that case it shall not take

effect and become operative until thirty days after such final passage, except measures necessary for the immediate preservation of the peace, health, or safety of the city, and no such emergency measure shall become immediately operative unless it shall state in a separate section the reasons why it is necessary that it should become immediately operative, and shall be approved by the affirmative vote of three-fourths of all the members elected to the city council, taken by ayes and noes, and also approved by the mayor.

3336. If any ordinance, charter or amendment to the charter of any city shall be proposed by initiative petition, said petition shall be filed with the city clerk, auditor or recorder, as the case may be, and the city clerk, auditor, or recorder, as the case may be, shall submit the same to the voters of the city or town at the next ensuing election held therein not less than ninety days after the same was first presented to the city council. The council may ordain said ordinance or amendment and refer it to the people, or it may ordain such ordinance or amendment without referring it to the people, and in that case it shall be subject to referendum petition in like manner as other ordinances; the mayor shall not have power to veto either of such measures. If conflicting ordinances or charter amendments shall be submitted to the people at the same election, and two or more of such conflicting measures shall be approved by the people, then the measure which shall have received the greatest number of affirmative votes shall be paramount in all particulars as to which there is conflict, even though such measures may not have received the greatest majority. Amendments to any city charter may be proposed and submitted to the people by the city council with or without an initiation petition, but the same shall be filed with the city clerk for submission not less than sixty days before the election at which they are to be voted upon, and no amendment of a city charter shall be effective until it is approved by a majority of the votes cast thereon by the people of the city or town to which it applies. The city council may by ordinance order special elections to vote on municipal measures.

3337. Referendum petitions against any ordinance, franchise or resolution passed by the board of supervisors of any county, and any ordinance, franchise or resolution may be proposed by initiative petition in any county, and in such case all the provisions of the three preceding sections shall be applicable. The petition in every such case shall be filed with the board of supervisors, and all duties required of the city clerk or recorder shall be performed by the clerk of the said board of supervisors, and all duties required of the mayor of a city or town shall be performed by the chairman of the board of supervisors, and all duties required by the city attorney shall be performed by the county attorney.

3338. Every person who is a qualified elector of the state of Arizona may sign a petition for the referendum or for the initiative for any measure which he is legally entitled to vote upon. Any person signing any name other than his own to any petition, or knowingly signing his name more

than once for the same measure, or proposed constitutional amendment at one election, or who is not at the time of signing the same a qualified elector of this state, or any officer or person wilfully violating any provision of this statute, shall upon conviction thereof, be punished by a fine not exceeding five hundred dollars, or by imprisonment in the penitentiary not exceeding two years, or by both fine and imprisonment, in the discretion of the court before which such conviction shall be had.

3339. It shall be unlawful for any person or persons to file any initiative or referendum petition, who at the time of filing said petition, knows it to be falsely made, or to wilfully destroy or suppress any initiative or referendum petition, or any part thereof, which has been duly filed with the lawfully elected officers of the state, or any political subdivision thereof. Any officer or other person or persons violating any of the provisions of this section, or who shall aid and abet in the violation of this section, shall be punished by a fine not to exceed one thousand dollars, or by imprisonment in the state prison not less than one nor more than two years, or by both such fine and imprisonment, in the discretion of the court.

PENAL CODE.

711. It shall be unlawful for any person to induce or compel, or attempt to induce or compel, by menace or threat, either directly or indirectly, any other person to sign or subscribe, or to refrain from signing or subscribing, his name, to any Initiative, Referendum or Recall Petition, or petition to any officer or official body, or, after signing or subscribing his name, to have his name taken therefrom. Any direct or indirect menace or threat that any person will or may be injured in his business or discharged from any lawful employment in which he is engaged, or will not or shall not be employed in any lawful vocation or labor, shall be deemed a violation of this Act. (Sec. 711.)

712. Any person who shall violate any of the provisions of this Act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

MAINE.**CONSTITUTIONAL PROVISIONS.****CHAPTER 121, RESOLVES OF 1907.****RESOLVES PROPOSING AN AMENDMENT TO ARTICLE FOUR OF THE CONSTITUTION OF THE STATE OF MAINE, ESTABLISHING A PEOPLE'S VETO THROUGH THE OPTIONAL REFERENDUM, AND A DIRECT INITIATIVE BY PETITION AND AT GENERAL OR SPECIAL ELECTIONS.**

Resolved, That the following amendment to the constitution of this state be proposed for the action of the legal voters of this state in the manner provided by the constitution, to wit:

Part first of article four is hereby amended as follows, namely:

By striking out all of section one after the word "Maine" in the third line thereof, and inserting in lieu thereof the following words 'But the people reserve to themselves power to propose and to enact or reject the same at the polls independent of the legislature, and also reserve power at their own option to approve or reject at the polls any act, bill, resolve or resolution passed by the joint action of both branches of the legislature, and the style of their laws and acts shall be 'Be it enacted by the people of the state of Maine,' so that said section as amended shall read as follows, namely:

'The legislative power shall be vested in two distinct branches, a house of representatives and a senate, each to have a negative on the other, and both to be styled the legislature of Maine, but the people reserve to themselves power to propose laws and to enact or reject the same at the polls independent of the legislature, and also reserve power at their own option to approve or reject at the polls any act, bill, resolve or resolution passed by the joint action of both branches of the legislature, and the style of their laws and acts shall be, 'Be it enacted by the people of the state of Maine.'

Part third of article four is hereby amended as follows, namely:

By inserting in section one, after the words "biennially and" in the second line thereof, the words 'with the exceptions hereinafter stated,' so that said section shall read as amended:

'The legislature shall convene on the first Wednesday of January, biennially, and, with the exceptions hereinafter stated shall have full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this state, not repugnant to this constitution nor to that of the United States.'

Part third of article four is further amended by adding to said article the following sections to be numbered from sixteen to twenty-two inclusive, namely:

'SECT. 16. No act or joint resolution of the legislature, except such orders or resolutions as pertain solely to facilitating the performance of the business of the legislature, of either branch, or of any committee or officer thereof, or appropriate money therefor or for the payment of salaries fixed

by law, shall take effect until ninety days after the recess of the legislature passing it, unless in case of emergency (which with the facts constituting the emergency shall be expressed in the preamble of the act,) the legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct. An emergency bill shall include only such measures as are immediately necessary for the preservation of the public peace, health or safety; and shall not include (1) an infringement of the right of home rule for municipalities, (2) a franchise or a license to a corporation or an individual to extend longer than one year, or (3) provision for the sale or purchase or renting for more than five years of real estate.'

'SECT. 17. Upon written petition of not less than ten thousand electors, addressed to the governor and filed in the office of the secretary of state within ninety days after the recess of the legislature, requesting that one or more acts, bills, resolves or resolutions, or part or parts thereof, passed by the legislature, but not then in effect by reason of the provisions of the preceding section, be referred to the people, such acts, bills, resolves, or resolutions or part or parts thereof as are specified in such petition shall not take effect until thirty days after the governor shall have announced by public proclamation that the same have been ratified by a majority of the electors voting thereon at a general or special election. As soon as it appears that the effect of any act, bill, resolve, or resolution or part or parts thereof has been suspended by petition in manner aforesaid, the governor by public proclamation shall give notice thereof and of the time when such measure is to be voted on by the people, which shall be at the next general election not less than sixty days after such proclamation, or in case of no general election within six months thereafter the governor may, and if so requested in said written petition therefor, shall order such measure submitted to the people at a special election not less than four nor more than six months after his proclamation thereof.'

'SECT. 18. The electors may propose to the legislature for its consideration any bill, resolve or resolution, including bills to amend or repeal emergency legislation but not an amendment of the state constitution, by written petition addressed to the legislature or to either branch thereof and filed in the office of the secretary of state or presented to either branch of the legislature at least thirty days before the close of its session. Any measure thus proposed by not less than twelve thousand electors, unless enacted without change by the legislature at the session at which it is presented, shall be submitted to the electors together with any amended form, substitute, or recommendation of the legislature, and in such manner that the people can choose between the competing measures or reject both. When there are competing bills and neither receives a majority of the votes given for or against both, the one receiving the most votes shall at the next general election to be held not less than sixty days after the first vote thereon be submitted by itself if it receives more than one-third of the votes given for and against both. If the measure initiated is enacted by the legislature without change, it shall not go to a referendum vote unless in

pursuance of a demand made in accordance with the preceding section. The legislature may order a special election on any measure that is subject to a vote of the people. The governor may, and if so requested in the written petitions addressed to the legislature, shall, by proclamation, order any measure proposed to the legislature by at least twelve thousand electors as herein provided, and not enacted by the legislature without change, referred to the people at a special election to be held not less than four or more than six months after such proclamation, otherwise said measure shall be voted upon at the next general election held not less than sixty days after the recess of the legislature, to which such measure was proposed.'

'SECT. 19. Any measure referred to the people and approved by a majority of the votes given thereon shall, unless a later date is specified in said measure, take effect and become a law in thirty days after the governor has made public proclamation of the result of the vote on said measure, which he shall do within ten days after the vote thereon has been canvassed and determined. The veto power of the governor shall not extend to any measure approved by vote of the people, and any measure initiated by the people and passed by the legislature without change, if vetoed by the governor and if his veto is sustained by the legislature shall be referred to the people to be voted on at the next general election. The legislature may enact measures expressly conditioned upon the peoples' ratification by a referendum vote.'

'SECT. 20. As used in either of the three preceding sections the words "electors" and "people" mean the electors of the state qualified to vote for governor; "recess of the legislature" means the adjournment without day of a session of the legislature; "general election" means the November election for choice of presidential electors or the September election for choice of governor and other state and county officers; "measure" means an act, bill, resolve or resolution proposed by the people, or two or more such, or part or parts of such, as the case may be; "written petition" means one or more petitions written or printed, or partly written and partly printed, with the original signatures of the petitioners attached, verified as to the authenticity of the signatures by the oath of one of the petitioners certified thereon, and accompanied by the certificate of the clerk of the city, town or plantation in which the petitioners reside that their names appear on the voting list of his city, town or plantation as qualified to vote for governor. The petitions shall set forth the full text of the measure requested or proposed. The full text of a measure submitted to a vote of the people under the provisions of the constitution need not be printed on the official ballots, but, until otherwise provided by the legislature, the secretary of state shall prepare the ballots in such form as to present the question or questions concisely and intelligibly.'

'SECT. 21. The city council of any city may establish the initiative and referendum for the electors of such city in regard to its municipal affairs, provided that the ordinance establishing and providing the method of

exercising such initiative and referendum shall not take effect until ratified by vote of a majority of the electors of said city, voting thereon at a municipal election. Provided, however, that the legislature may at any time provide a uniform method for the exercise of the initiative and referendum in municipal affairs.'

'SECT. 22. Until the legislature shall enact further regulations not inconsistent with the constitution for applying the people's veto and direct initiative, the election officers and other officials shall be governed by the provisions of this constitution and of the general law, supplemented by such reasonable action as may be necessary to render the preceding sections self-executing.'

Resolved, That all the foregoing is proposed to be voted upon as one amendment, and not as two or more several amendments.

[The thirty-first amendment was proposed to the people by a resolve of the seventy-third legislature, approved March 20, 1907, and having been adopted September 14, 1908, was proclaimed by Governor Cobb to be a part of the constitution, October 30, 1908, and took effect on the first Wednesday of January, 1909.]

MARYLAND.

CONSTITUTIONAL PROVISION.

ARTICLE XVI.¹

THE REFERENDUM.

SECTION 1. (a) The people reserve to themselves power known as The Referendum, by petition to have submitted to the registered voters of the State, to approve or reject at the polls, any Act, or part of any Act of the General Assembly, if approved by the Governor, or, if passed by the General Assembly over the veto of the Governor.

(b) The provisions of this Article shall be self-executing; provided that additional legislation in furtherance thereof and not in conflict therewith may be enacted.

SEC. 2. No law enacted by the General Assembly shall take effect until the first day of June next after the session at which it may be passed, unless it contain a section declaring such law an emergency law and necessary for the immediate preservation of the public health or safety, and passed upon a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly; provided, however, that said period of suspension may be extended as provided in Section 3 (b) hereof. If before said first day of June there shall have been filed with the Secretary of the State a petition to refer to a vote of the people any law or part of a law capable of referendum, as in this Article provided, the same shall be referred by the Secretary of State to such vote, and shall not become a law or take effect until thirty days after its approval by a majority of the electors voting thereon at the next ensu-

¹ Added by Chapter 673, 1914, ratified November 2, 1915.

ing election held throughout the State for Members of the House of Representatives of the United States. An emergency law shall remain in force notwithstanding such petition, but shall stand repealed thirty days after having been rejected by a majority of the qualified electors voting thereon; provided, however, that no measure creating or abolishing any office, or changing the salary, term or duty of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be enacted as an emergency law. No law making any appropriation or maintaining the State Government, or for maintaining or aiding any public institution, not exceeding the next previous appropriation for the same purpose, shall be subject to rejection or repeal under this section. The increase in any such appropriation for maintaining or aiding any public institution shall only take effect as in the case of other laws, and such increase or any part thereof specified in the petition, may be referred to a vote of the people upon petition.

SEC. 3. (a) The referendum petition against an Act or part of an Act passed by the General Assembly, shall be sufficient if signed by ten thousand qualified voters of the State of Maryland, of whom not more than half shall be residents of Baltimore city, or of any one county; provided that any Public Local Law for any one county or the city of Baltimore shall be referred by the Secretary of State only to the people of said county or city of Baltimore, upon a referendum petition of ten per cent of the qualified voters of said county or city of Baltimore as the case may be, calculated upon the whole number of votes cast therein respectively for Governor at the last preceding Gubernatorial election.

(b) If more than one-half, but less than the full number of signatures required to complete any referendum petition against any law passed by the General Assembly, be filed with Secretary of State before the first day of June, the time for the law to take effect, and for filing the remainder of signatures to complete the petition shall be extended to the thirtieth day of the same month, with like effect.

SEC. 4. A petition may consist of several papers, but each paper shall contain the full text of the Act or part of Act petitioned upon; and there shall be attached to each such paper an affidavit of the person procuring the signatures thereon that of the said person's own personal knowledge every signature thereon is genuine and bona fide, and that the signers are registered voters of the State of Maryland, and of the city of Baltimore, or county, as the case may be, as set opposite their names, and no other verification shall be required.

SEC. 5. (a) The General Assembly shall provide for furnishing the voters of the State the text of all measures to be voted upon by the people; provided, that until otherwise provided by law the same shall be published in the manner prescribed by Article XIV of the Constitution for the publication of proposed Constitutional Amendments.

(b) All laws referred under the provisions of this Article shall be submitted separately on the ballots to the voters of the people, but if contain-

ing more than two hundred words, the full text shall not be printed on the official ballots, but the Secretary of State shall prepare and submit a ballot title of each such measure in such form as to present the purpose of said measure concisely and intelligently. The ballot title may be distinct from the legislative title, but in any case the legislative title shall be sufficient. Upon each of the ballots, following the ballot title or text, as the case may be, of each such measure, there shall be printed the words "For the referred law" and "Against the referred law," as the case may be. The votes cast for and against any such referred law shall be returned to the Governor in the manner prescribed with respect to proposed amendments to the Constitution under Article XIV of this Constitution, and the Governor shall proclaim the result of the election, and, if it shall appear that the majority of the votes cast on any such measure were cast in favor thereof, the Governor shall, by his proclamation, declare the same having received a majority of the votes to have been adopted by the people of Maryland as a part of the laws of the State, to take effect thirty days after such election, and in like manner and with like effect the Governor shall proclaim the result of the local election as to any Public Local Law which shall have been submitted to the voters of any county or the city of Baltimore.

SEC. 6. No law or Constitutional Amendment, licensing, regulating, prohibiting, or submitting to local option, the manufacture or sale of malt or spirituous liquors, shall be referred or repealed under any Act of the provisions of this Article.

APPENDIX C.

VOTES IN MASSACHUSETTS ON STATE REFERENDA AND FOR GOVERNOR, 1780-1916.

From *Referenda in Massachusetts and Boston*, by Dr. Edward M. Hartwell, Secretary, Statistics Department, Boston.

Date.	OBJECT OF REFERENDUM.	VOTE ON REFERENDUM.			Vote for Governor.	PERCENTAGE.		Result.
		For.	Against.	Total.		Vote on Referendum to Vote for Governor.	Majority Vote on Referendum to Total Vote on Same.	
1780	Adoption of the Constitution.	12,000	1,000	13,000	12,281	105.9	92.3	Accepted.
1795, May 6	Expediency of Revising the Constitution.	7,999	8,325	16,324	17,710	92.2 ¹	51.0 ¹	Rejected.
1820, Aug. 21	Whether a Constitutional Convention Shall Be Held.	11,756	6,593	18,349	53,297	34.4	64.1	Accepted.
1821, Apr. 9	To Abolish Support, by the Towns, of Protestant Ministers and Required Attendance upon the Instructions of the Clergy.	11,065	19,547	30,612	49,086	62.4 ¹	63.9 ¹	Rejected.
1821, Apr. 9	To Change the Political Year and Date of State Election.	14,164	16,728	30,892	49,086	62.9 ¹	54.1 ¹	Rejected.
1821, Apr. 9	To Forbid Bills Unsigned after Adjournment of General Court to Become Laws.	17,949	10,709	28,658	49,086	58.4	62.6	Article I.
1821, Apr. 9	To Empower the Legislature to Grant City Charters.	14,368	14,306	28,674	49,086	58.4	50.1	Article II.

1821, Apr. 9	To Change Method of Electing Senators, Representatives and Councillors, . . .	9,904	20,729	30,633	49,086	62.4 ¹	67.7 ¹	Rejected.
1821, Apr. 9	To Abolish Property Qualification for Voters, . . .	18,702	10,160	28,862	49,086	58.8	64.8	Article III.
1821, Apr. 9	To Authorize Appointment of Notaries Public by the Governor, . . .	14,174	13,617	27,691	49,086	56.4	51.2	Article IV.
1821, Apr. 9	To Allow All Members of Militia to Vote for their Captains and Subalterns, . . .	22,726	6,444	29,170	49,086	59.4	77.9	Article V.
1821, Apr. 9	To Empower Governor to Remove Justices of the Peace and to Prohibit Referring Certain Questions to Supreme Court, . . .	12,471	14,518	26,989	49,086	55.0 ¹	53.8 ¹	Rejected.
1821, Apr. 9	To Allow Overseers of Harvard College Free Choice in Election of Ministers to their Board, . . .	8,020	20,123	28,143	49,086	57.3 ¹	71.5 ¹	Rejected.
1821, Apr. 9	To Simplify the Oath of Allegiance, . . .	17,552	9,244	26,796	49,086	54.6	65.5	Article VI.
1821, Apr. 9	To Require No Other Oath than that of Allegiance of Any Civil or Military Officer, . . .	13,782	12,480	26,262	49,086	53.5	52.5	Article VII.
1821, Apr. 9	To Make Judges (except of Court of Sessions) and Officials of United States (except Postmasters) Ineligible to State Offices, . . .	18,043	8,412	26,460	49,086	53.9	68.2	Article VIII.
1821, Apr. 9	To Provide that Proposed Amendments of Constitution must be Passed by Two Successive Legislatures before Submission to the People, . . .	16,325	11,661	27,986	49,086	57.0	58.3	Article IX.
1831, May 11	To Change the Political Year and Date of State Election, . . .	19,434	6,277	25,711	48,895	52.6	75.6	Article X.
1833, Nov. 11	To Abolish Support by Towns of Ministers and the Required Attendance upon the Instructions of Clergymen, . . .	32,354	3,272	35,626	62,474	57.0	90.8	Article XI.
1836, Nov. 14	To Change the Basis of Apportioning Members of the General Court, . . .	34,719	11,754	46,473	78,389	59.3	74.7	Article XII.

¹ Indicates a majority against.

* Maine became a State on March 15, 1820, hence the voters therein had no part in Massachusetts referenda after 1795.

VOTES IN MASSACHUSETTS ON STATE REFERENDA AND FOR GOVERNOR, 1780-1916 — CONTINUED.

Date.	OBJECT OF REFERENDUM.	VOTE ON REFERENDUM.		Vote for Governor.	PERCENTAGES.		Result.
		For.	Against. Total.		Vote on Referendum to Vote for Governor.	Majority Vote on Referendum to Total Vote on Same.	
1840, Mar. 10	To Require a Decennial Census of Inhabitants for Determining Apportionment of Senators and Representatives,	24,884	4,912 29,796	127,315	23.4	83.5	Article XIII.
1851, Nov. 10	On Expediency of Holding a Constitutional Convention,	60,972	65,846 126,818	137,187	92.4 ¹	51.9 ¹	Rejected.
1852, Nov. 8	On Expediency of Holding a Constitutional Convention,	66,416	59,111 125,527	138,436	90.7	52.9	Accepted.
1853, Nov. 14	On Accepting a Revision of Bill of Rights and Constitution,	63,222	68,150 131,372	129,010	101.8 ¹	51.9 ¹	Rejected.
1853, Nov. 14	To Enlarge the Discretion of the Courts in Granting Writs of Habeas Corpus,	63,282	67,006 130,288	129,010	101.0 ¹	51.4 ¹	Rejected.
1853, Nov. 14	To Enlarge the Jurisdiction of Juries in Criminal Causes,	61,699	68,382 130,081	129,010	100.8 ¹	52.6 ¹	Rejected.
1853, Nov. 14	To Permit Claimants to Sue the State, . . .	63,805	66,828 130,633	129,010	101.3 ¹	51.2 ¹	Rejected.
1853, Nov. 14	To Abolish Imprisonment for Debt, . . .	64,015	66,432 130,447	129,010	101.1 ¹	50.9 ¹	Rejected.
1853, Nov. 14	To Forbid Support of Sectarian Schools from Public Money,	65,111	65,512 130,623	129,010	101.3 ¹	50.2 ¹	Rejected.
1853, Nov. 14	To Forbid the Creation of Corporations by Special Acts of the Legislature,	63,246	67,011 130,257	129,010	101.0 ¹	51.4 ¹	Rejected.
1853, Nov. 14	To Forbid the Incorporation of Banks by Special Acts of the Legislature,	63,412	67,109 130,521	129,010	101.2 ¹	51.4 ¹	Rejected.
1856, May 23	To Provide for the Election of Civil Officers by a Plurality of the Votes Cast,	14,862	5,124 19,986	136,582	14.6	74.4	Article XIV.

1855, May 23	To Change the Date of the Annual State Election,	17,094	2,762	19,856	136,582	14.5	86.1	Article XV.
1855, May 23	To Change the Number of Councillors and Method of Election,	14,720	4,960	19,670	136,582	14.4	74.8	Article XVI.
1855, May 23	To Make the Offices of Secretary, Treasurer, Auditor and Attorney General Elective by the People,	14,500	5,210	19,710	136,582	14.4	73.6	Article XVII.
1855, May 23	To Forbid Expenditure of Public Moneys for the Support of Secarian Schools,	17,531	2,541	20,072	136,582	14.7	87.3	Article XVIII.
1855, May 23	To Require the Legislature to Prescribe for the Election of County Officers by the People of the Counties,	13,880	5,724	19,604	136,582	14.4	70.8	Article XIX.
1857, May 1	To Restrict the Right to Vote or to Hold Office to Persons Able to Read and Write,	23,833	13,746	37,579	130,536	28.8	63.4	Article XX.
1857, May 1	To Change the Time of Decennial Census and to Make the Number of Legal Voters the Basis of Apportionment of Representatives,	31,277	6,282	37,559	130,536	28.8	83.3	Article XXI.
1857, May 1	To Base Apportionment of Senators on the Number of Legal Voters Enumerated by Decennial Census,	32,971	4,342	37,313	130,536	28.6	88.4	Article XXII.
1859, May 9	To Forbid Naturalized Citizens to Vote or Hold Office unless Resident in United States for Two Years after their Naturalization,	20,753	15,129	35,882	109,051	32.9	57.8	Article XXIII.
1860, May 17	To Authorize the Senate to Order Elections to Fill Vacancies in the Senate,	4,422	1,205	5,627	169,609	3.3	78.6	Article XXIV.
1860, May 17	To Provide a Method for Filling Vacancies in the Council,	4,103	1,531	5,634	169,609	3.3	72.8	Article XXV.
1863, Apr. 6	To Annul the Twenty-third Amendment. (See 41 above),	10,035	6,082	16,117	99,767	16.1	62.3	Article XXVI.
1877, Nov. 6	To Annul Provision that No Member of Faculty of Harvard College Shall Hold a Seat in General Court,	23,839	6,505	30,344	194,454	16.5	78.6	Article XXVII.

† Indicates a majority against.

VOTES IN MASSACHUSETTS ON STATE REFERENDA AND FOR GOVERNOR, 1780-1916 — CONCLUDED.

Date.	OBJECT OF REFERENDUM.	VOTES ON REFERENDUM.			Vote for Governor.	PERCENTAGES.		Result.
		For.	Against.	Total.		Vote on Referendum to Vote for Governor.	Majority Vote on Referendum to Total Vote on Same.	
1881, Nov. 8	To Prevent Disfranchisement of Pauper Soldiers and Sailors.	80,245	20,184	50,429	157,803	31.9	60.0	Article XXVIII.
1885, Nov. 3	To Provide for Voting by Precincts in Towns.	43,598	8,673	52,271	209,668	24.9	83.4	Article XXIX.
1889, Apr. 22	To Forbid the Manufacture of Intoxicating Drinks.	85,242	131,062	216,304	263,111	82.2 ¹	60.6 ¹	Rejected.
1890, Nov. 4	To Forbid Disqualification of Voters, for Change of Residence, within Six Months of Such Change.	97,177	44,686	141,863	285,526	49.7	68.5	Article XXX.
1890, Nov. 4	To Relieve Soldiers and Sailors Receiving Public Aid from Designation of "Paupers."	100,109	27,021	127,130	285,526	44.5	78.7	Article XXXI.
1891, Nov. 3	To Abolish Payment of Poll Tax as a Prerequisite to Voting.	144,931	53,554	198,485	321,650	61.7	73.0	Article XXXII.
1891, Nov. 3	To Make a Majority of Each Branch of the General Court a Quorum.	152,688	29,590	182,278	321,650	56.7	83.8	Article XXXIII.
1892, Nov. 8	To Abolish the Property Qualification for Office of Governor.	141,321	69,045	209,366	399,698	52.4	67.5	Article XXXIV.
1893, Nov. 7	To Annul the Provision for Paying Mileage but Once to Members of the General Court.	125,375	80,555	205,930	365,112	56.4	60.9	Article XXXV.
1894, Nov. 6	To Abolish the Office of Commissioners of Insolvency.	114,499	34,741	149,240	335,354	44.5	76.7	Article XXXVI.
1895, Nov. 5	Expediency of Granting Municipal Suffrage to Women.	86,990	186,976	273,966	328,121	83.5 ¹	68.2 ¹	Rejected.
1896, Nov. 3	To Make Elections of Governor, Lieut.-Governor and Councillors Biennial instead of Annual.	115,505	161,263	276,768	385,064	71.9 ¹	58.3 ¹	Rejected.

1896, Nov. 3	To Make Elections of Senators and Representatives Biennial instead of Annual,	105,589	156,211	261,800	385,064	68.0 ¹	59.7 ¹	Rejected.
1907, Nov. 5	To Empower the Governor to Remove Justices of the Peace and Notaries Public,	178,005	35,989	213,994	373,705	58.8	83.2	Article XXXVII.
1911, Nov. 7	To Authorize the Use of Voting Machines at all Elections,	197,255	107,924	305,179	440,020	69.4	64.6	Article XXXVIII.
1911, Nov. 7	To Authorize Additional Legislation for the Taking of Land and Property for Highways and Streets,	197,761	98,546	296,307	440,020	67.3	66.7	Article XXXIX.
1912, Nov. 5	To Prevent Persons, Disqualified because of Corrupt Practices respecting Elections, from Voting,	208,492	85,689	294,181	478,792	61.4	70.9	Article XL.
1912, Nov. 5	To Empower the General Court to Prescribe Special Methods of Taxation for Wild or Forest Lands,	200,819	70,923	271,742	478,792	56.8	73.9	Article XLI.
1913, Nov. 4	To Make Women Eligible as Notaries Public,	154,691	181,343	336,034	460,873	72.9	54.0 ¹	Rejected.
1913, Nov. 4	To Authorize the Referendum by Vote of the General Court,	206,889	77,767	284,456	460,873	61.7	72.7	Article XLII.
1914, Nov. 3	To Make Saturday a Half-holiday,	248,987	128,251	377,238	458,204	82.3	66.0	Accepted.
1914, Nov. 3	To Abolish the Enrollment of Members of Political Parties and to Limit the Membership of Ward and Town Committees,	253,716	86,834	340,550	458,204	74.3	74.5	Accepted.
1915, Nov. 2	Empowering the General Court to Authorize the Taking of Land to Relieve Congestion of Population and to Provide Homes for Citizens,	284,568	95,148	379,716	502,146	75.6	74.9	Article XLIII.
1915, Nov. 2	Enabling Women to Vote,	162,492	295,939	458,431	502,146	91.3	64.5 ¹	Rejected.
1915, Nov. 2	Relative to Taxation of Incomes and the Granting of Reasonable Exemptions,	269,871	97,856	367,727	502,146	73.2	73.4	Article XLIV.
1916, Nov. 7	On Making New Year's Day a Legal Holiday,	312,678	113,142	425,820	526,421	80.9	73.4	Accepted.
1916, Nov. 7	On Restoring Party Enrollment at Primaries,	209,624	150,050	359,674	526,421	68.3	58.3	Accepted.
1916, Nov. 7	On Holding a Constitutional Convention,	217,293	120,979	338,272	526,421	64.3	64.2	Accepted.

¹ Indicates a majority against.
 Novs. — The Referenda which became Amendments to the State Constitution are indicated under "Result."

APPENDIX D.

TABLES OF VOTINGS IN OREGON AND IN PORTLAND CITY
ELECTIONS, 1904-16.

Oregon's experience with the Initiative and Referendum has been both more extended and more varied than that of any other State.

The following tables of Oregon Votings, taken from the article "The Oregon System at Work," in *The National Municipal Review* for April, 1914, by Richard W. Montague, have been brought down to date by the same careful student, Mr. George A. Thacher, who compiled the original tables.

It is believed that these tables are exceptionally reliable, and that they present some of the most valuable material available for the study of the actual working of the Initiative and Referendum. Mr. Montague's paper is of great interest.

Summary of Action of the Oregon Voters on Measures submitted, 1904-16.

Year.	ALL MEASURES.				PROPOSED BY INITIATION.				REFERRED BY PETITION.				REFERRED BY LEGISLATURE.			
	Submitted.	Adopted.	Rejected.	Percentage adopted.	Submitted.	Adopted.	Rejected.	Percentage adopted.	Submitted.	Adopted.	Rejected.	Percentage adopted.	Submitted.	Adopted.	Rejected.	Percentage adopted.
1904.	2	2	-	100.0	2	2	-	100.0	-	-	-	-	-	-	-	-
1906.	11	8	3	72.7	10	7	3	70.0	1	1	-	100.0	-	-	-	-
1908.	19	13	7	68.1	11	8	3	72.7	4	2	2	50.0	4	1	2	50.0
1910.	32	9	23	28.1	25	8	17	32.0	1	-	1	-	6	1	5	16.6
1912.	37	11	26	29.7	28	8	20	28.5	3	1	2	33.3	6	2	4	33.3
1914.	5	4	1	80.0	1	1	-	100.0	4	3	1	75.0	-	-	-	-
1916.	29	4	25	13.7	19	2	17	10.5	-	-	-	-	10	2	8	20.0
	11	6	5	54.5	8	4	4	50.0	-	-	-	-	3	2	1	66.6

STATE OF OREGON.

1902.

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
Initiative and referendum amendment to constitution,	67,692	78.5	56,356	—

Average vote cast for six state officers and congressmen, 86,175; highest (secretary of state), 88,704; lowest (attorney-general), 82,838; total electors voting, 92,920.

1904.

Local option liquor law,	83,514	92.2	3,118	—
Direct primary election law,	72,559	80.1	39,851	—
Amendment permitting regulation of office of state printer,	59,365	65.5	31,303	—

Average vote cast for presidential electors, congressmen, dairy and food commissioner and justice of supreme court, 90,559; highest (congressmen), 93,906; lowest (dairy and food commissioner), 84,569; total number of electors voting, 99,315.

1906.

Referendum on appropriation for state colleges, asylums, etc.,	70,676	78.2	17,160	—
Equal suffrage amendment,	83,977	92.9	—	10,173
Amendment of local option law to give anti-prohibitionists equal privileges,	80,441	89.0	—	9,847
To provide for state ownership of toll road across Cascades,	76,052	84.1	—	13,002
Applying referendum to all laws for constitutional amendments or constitutional conventions,	66,412	73.4	28,910	—
To grant cities and towns exclusive power to enact and amend their charters,	72,419	80.1	32,715	—
To permit state printers' pay to be regulated by law,	73,320	81.1	54,178	—
To provide for initiative and referendum on local and special laws and parts of laws,	64,413	71.2	30,943	—
To prohibit the use of free passes by public officers,	74,060	81.9	40,502	—
To levy gross earnings taxes on sleeping car, refrigerator car and oil companies,	76,076	84.1	63,194	—
To levy gross earnings taxes on express, telegraph and telephone companies,	77,232	85.4	64,512	—

Average vote for eight state officers, congressmen and United States senators, 90,377; highest (governor), 96,715; lowest (labor commissioner), 80,132; total number of electors voting, 99,445.

1908.

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To increase pay of legislators,	88,583	83.8	-	49,201
To permit state institutions to be lo- cated elsewhere than at capital on vote of the people,	82,843	78.3	1,107	-
To increase number of justices of su- preme court, etc.,	80,834	76.5	-	20,348
To change time of elections from June to November,	84,318	79.7	47,138	-
To give custody of county prisoners to sheriff, fixing the price of meals of prisoners,	90,476	85.6	30,410	-
To require railroads to transport state and county officers free,	88,262	83.5	-	30,550
To appropriate \$100,000 to build ar- mories for national guard,	88,355	83.6	-	21,341
To increase annual appropriation for state university,	84,660	80.1	3,580	-
To grant woman suffrage,	95,528	90.4	-	21,812
To regulate fishing for salmon and stur- geon in certain sections of Columbia river, etc.,	87,302	82.6	5,862	-
Giving cities exclusive control of thea- tres, race tracks, etc., and of the sale of liquor subject to the local option law,	91,788	86.8	-	12,904
To exempt all improvements, tools, livestock and furniture from taxa- tion,	92,937	87.9	-	28,805
Amendment providing for recall of elec- tive officers,	89,383	84.6	27,379	-
To instruct legislature to elect candi- dates for United States senators re- ceiving largest popular vote,	90,830	85.9	48,566	-
Amendment authorizing proportional representation, preferential ballot, etc.,	82,996	78.5	14,740	-
To limit campaign expenses and pre- vent corrupt practices in elections,	85,343	80.7	22,741	-
To prevent fishing for salmon and stur- geon in upper Columbia, except with hook and line,	86,410	81.7	25,850	-
Restoring grand jury and prohibiting indictments to be found otherwise,	80,701	76.3	23,727	-
To create Hood River County out of portion of Wasco County,	70,726	66.9	17,170	-

Average vote for four state officers and United States senator, 105,670; highest (United States senator), 112,364; lowest (railroad commissioner), 98,617; total number of electors voting, 116,614.

1910.

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To grant suffrage to women taxpayers,	94,835	90.7	-	23,795
To authorize construction of an insane asylum in eastern Oregon,	91,638	88.1	8,630	-
To authorize a convention to revise the constitution,	83,117	79.9	-	36,831
To create separate districts for each state senator and representative,	78,252	75.3	-	30,252
To drop requirement that all taxation shall be equal and uniform,	77,791	74.8	-	2,553
To authorize state construction of rail- roads,	78,914	75.9	-	13,226
To provide that property may be spe- cifically taxed,	73,321	70.5	-	10,063
To increase the pay of a circuit judge in Eastern Oregon,	84,664	81.4	-	58,342
Creating Neemith County,	83,457	80.3	-	37,725
To provide permanent support for Monmouth normal school,	90,235	86.8	10,147	-
Creating Otis County,	79,442	76.4	-	44,590
To annex part of Clackamas County to Multnomah County,	85,252	82.0	-	52,752
Creating Williams County,	78,598	75.6	-	49,582
To permit each county to adopt single tax and to abolish poll tax,	86,298	83.0	2,044	-
To give cities and towns exclusive powers to control sale of liquors sub- ject to local option law,	104,100	100.1	2,542	-
Employers' liability law for protection of laborers in hazardous occupation,	90,201	86.8	22,315	-
Creating Orchard County,	78,376	75.4	-	47,048
Creating Clark County,	77,317	74.4	-	46,091
To provide permanent support for nor- mal school at Weston,	87,099	83.8	-	5,303
To annex a portion of Washington County to Multnomah County,	82,268	79.1	-	54,174
To provide permanent support for nor- mal school at Ashland,	87,128	83.8	-	10,182
To prohibit the manufacture and sale of liquor in Oregon,	104,781	100.8	-	17,681
To prevent manufacture, sale, posses- sion, exchange and giving away of liquor,	106,215	102.2	-	20,913
To create commission to prepare bill to fix indemnity for injuries to em- ployees,	83,943	80.7	-	19,495
To prohibit fishing in Rogue River except with hook and line,	83,109	79.9	16,315	-
Creating DesChutes County,	78,078	75.1	-	42,894
To provide for creation of new towns and counties by vote in such districts,	79,456	76.4	-	5,198
To permit counties to go in debt for permanent roads,	84,181	81.0	18,369	-
Authorizing presidential primaries,	84,977	81.7	1,729	-

1910 — *Concluded.*

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To provide inspectors of government and for an official gazette, . . .	82,493	79.3	—	22,583
To provide for proportional representation in legislature and otherwise modifying its organisation, . . .	81,397	78.3	—	7,335
Judiciary amendment to constitution authorizing verdict of three-fourths of jury in civil cases and for affirmation of judgment on appeal, notwithstanding error committed in lower court,	83,937	80.7	5,139	—

Average vote for fourteen state officers and congressmen, 103,906; highest (governor), 117,690; lowest (water superintendent), 84,308; total number of electors voting, 120,248.

1912.

To grant woman suffrage, . . .	118,369	92.1	4,161	—
To create office of lieutenant governor, . . .	112,206	87.3	—	11,082
To permit specific taxation upon different classes of property, . . .	108,523	84.5	—	4,819
To require uniformity of taxation in each class of property specifically taxed, . . .	106,528	82.9	—	2,438
To repeal measure (adopted in 1910) permitting counties to regulate their own taxation, . . .	111,031	86.4	16,731	—
To require majority of all electors voting for adoption of constitutional amendment, . . .	103,259	80.4	—	37,391
Imposing double liability on bank stockholders, . . .	104,719	81.5	61,243	—
To give railroad commission jurisdiction over all public service corporations, . . .	106,941	83.2	25,029	—
Creating Cascade County, . . .	97,702	76.0	—	44,776
To create a single board of regents for state university and agricultural college and fixing tax levy for such institutions, . . .	105,980	82.5	—	8,578
To require majority of all electors voting for adoption of initiative measures, . . .	104,582	81.4	—	33,140
To permit counties to issue bonds to build permanent roads. (Grange bill), . . .	106,412	82.8	—	7,014
To create a state highway department with engineer at \$3,600 a year. (Grange bill), . . .	107,718	83.8	—	59,974
Anticipating date bill regulating state printer becomes effective, . . .	104,335	81.2	—	34,749

1912—Continued.

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To create office of hotel inspector, . . .	108,905	84.8	—	75,085
To make an eight-hour day on all public works, . . .	112,586	87.6	16,430	—
To supervise selling stocks and bonds and to require a license therefor, . . .	106,058	82.6	—	8,528
To prohibit employment of state convicts by private agencies and to authorize their employment on public works, . . .	111,292	86.6	36,308	—
To prohibit employment of city convicts by private agencies and authorizing their employment on public works, . . .	109,098	84.9	33,636	—
To create a state board to issue bonds not exceeding a million a year to build public roads. ("Harmony" bill), . . .	106,487	82.9	—	44,693
To prohibit state from incurring indebtedness for road building in excess of 2 per cent of taxable property. ("Harmony" bill), . . .	102,899	80.1	16,005	—
To authorize counties to issue twenty-year bonds for road building, etc. ("Harmony" bill), . . .	103,821	80.8	—	16,599
To prohibit counties from voting road bonds in excess of 2 per cent of assessed valuation. ("Harmony" bill), . . .	101,116	78.7	13,400	—
To provide for consolidating contiguous cities and towns, . . .	97,191	75.6	—	16,793
To provide for the taxation of incomes from whatever source derived, . . .	105,650	82.2	—	246
To exempt from taxation all household goods actually in use, . . .	112,183	87.3	8,531	—
To exempt from taxation all debts of every kind except bank stock and banking capital, . . .	109,031	84.9	—	24,049
To revise inheritance tax laws, etc., . . .	102,448	79.7	—	25,230
To fix percentage of freight rates on less than carload lots and to establish minimum weights and maximum freights, . . .	103,840	80.8	12,772	—
To authorize county courts to sell bonds for roads when authorized by voters. ("Medford" road bill), . . .	102,049	79.4	—	24,913
To abolish state senate; governor to introduce appropriation bills; proportional representation, etc. (U'Ren constitution), . . .	102,203	79.6	—	40,163
To provide graduated taxes on franchises and natural resources and exempting improvements on land and personalty. (State-wide single tax), . . .	113,549	88.4	—	50,481

1912 — *Concluded.*

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To abolish capital punishment, . . .	106,529	82.9	—	22,627
To prohibit picketing or boycotting and inducing employees to quit work, . .	110,386	85.9	—	10,734
To prohibit use of streets and public places for public discussion without written permit from mayor, . . .	111,519	86.8	—	13,545
To appropriate \$328,258 for state uni- versity buildings, . . .	108,422	84.4	—	49,548
To appropriate \$175,000 for library and museum for university, . . .	106,686	83.0	—	52,066

Average vote for four state officers, presidential electors and congressmen and United States senator, 128,391; highest (presidential electors), 137,040; lowest (railroad commissioner), 118,348. Total number of electors voting, 144,113.

Referendum Election.

1913.

Repair fund for university of Oregon, .	97,259	—	16,059	—
Appropriation for university buildings,	96,583	—	10,555	—
Sterilisation law, . . .	95,086	—	—	11,552
County attorney act, . . .	92,338	—	16,020	—
Workmen's compensation act, . . .	96,422	—	39,206	—

Total number of votes cast, 102,276.

1914.

To amend constitution requiring voters to be citizens of the United States, .	204,726	95.7	125,032	—
To create office of Lieutenant-Gov- ernor, . . .	195,844	91.6	—	91,764
To consolidate city and county govern- ment in certain counties, . . .	180,586	84.4	—	25,802
To bond state for roads, irrigation and power projects, . . .	185,309	86.6	—	85,791
To omit requirement in constitution that all taxation shall be equal and uniform, . . .	175,696	82.1	—	57,284
To provide for specific taxes, income taxes and exemptions, . . .	175,066	81.8	—	70,342
To support normal school at Ashland,	193,684	90.6	—	25,602
To permit passage of laws for consoli- dation of towns and cities, . . .	173,787	81.3	18,445	—
To support normal school at Weston, .	192,795	90.1	—	17,895
To pay legislators \$5 per day, . . .	187,365	87.6	—	105,191
Universal constitutional eight-hour day amendment, . . .	217,248	101.6	—	118,528

1914—Concluded.

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To make eight-hour day for female workers,	208,776	97.6	—	31,816
To prohibit party nominations for judicial officers,	181,586	84.9	—	32,940
To provide a \$1,500 tax exemption,	201,688	94.3	—	70,698
Public docks and water front amendment,	181,692	84.9	—	47,436
Municipal wharves and dock bill,	178,223	83.3	—	44,003
Prohibition amendment,	237,204	110.9	36,480	—
Abolishing death penalty,	200,947	94.0	157	—
To provide for specific personal graduated taxes,	184,129	86.1	—	65,757
To consolidate corporation and insurance departments,	175,623	82.1	—	64,685
Dentistry bill,	203,126	95.0	—	17,682
County officers term amendment,	189,880	88.8	—	24,198
Tax code commission bill,	177,904	83.2	—	109,032
To abolish Desert Land Board and to reorganize certain state officers,	176,067	82.3	—	110,665
Proportional representation amendment,	176,856	82.7	—	97,376
State senate constitutional amendment,	185,805	86.9	—	61,053
To create department of industry and public works,	184,060	86.1	—	68,342
Primary delegate election bill,	178,696	83.1	—	128,580
Equal assessment and taxation and \$300 exemption amendment,	183,787	85.9	—	97,227

Average vote for twelve state officers, congressmen and United States senator, 213,757; highest (governor), 248,052; lowest (superintendent of water divisions), 172,404. Total number of electors voting, 259,868.

1916.

Single item veto amendment,	194,980	83.0	88,566	—
Ship tax exemption,	185,062	78.8	54,242	—
To repeal provision against negro suffrage,	200,728	85.5	—	674
Full rental value land tax and home-makers loan fund amendment,	198,370	84.5	—	111,590
To provide a normal school at Pendleton and ratify location of certain institution,	206,352	87.9	—	12,694
Anti-compulsory vaccination bill,	199,864	85.1	—	374
To repeal Sunday closing law,	218,912	93.2	32,760	—
To permit manufacture and sale of 4 per cent malt liquors,	226,572	96.5	—	54,626
Forbidding importation of intoxicating liquors for beverage purposes,	224,603	95.7	5,261	—

1916 — *Concluded.*

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To create rural credit loan fund,	191,375	81.5	23,601	—
To limit increase of taxes to 6 per cent increase on previous levy,	183,567	78.2	15,505	—

Average vote for five state officers, presidential electors and congressmen, 234,686; highest (presidential electors), 260,547; lowest (supreme court justices), 202,664. Total number of electors voting, 269,057.

CITY OF PORTLAND.

1905.

To annex territory,	9,962	73.1	638	—
To annex territory,	10,007	73.4	3,103	—
To tax whole city for bridges,	11,141	81.7	2,991	—
To grant street railway franchise,	10,124	74.3	—	1,886
To provide security for city funds,	9,192	67.5	2,462	—
To provide a clerk for police court,	9,240	67.8	526	—
To place penalty on delinquent assessments,	9,039	66.4	—	939
To decrease cost of advertising,	9,446	69.3	6,034	—
To grant telephone franchise,	13,773	101.0	12,653	—

Average vote cast for ten city officers, 13,624; highest (mayor), 14,689; average for five councilmen, lowest, 13,156.

1907.

To issue water bonds,	14,363	91.4	131	—
To issue park and boulevard bonds,	14,286	90.9	2,000	—
To issue dock bonds,	13,961	88.9	4,867	—
To issue bridge bonds,	14,440	91.9	9,304	—
To issue bonds for fire boat and water mains,	13,943	88.8	3,967	—
To improve streets by districts,	13,121	83.5	5,317	—
To permit remonstrance of four-fifths of property owners to defeat street improvements,	12,736	81.1	3,396	—
To regulate sale of property for assessments,	12,445	79.2	5,961	—
To increase salary of city engineer,	13,745	87.6	—	4,841
To increase salary of city attorney,	13,750	87.6	—	5,950
To increase salary of city treasurer,	13,654	86.9	—	4,980
To increase salary of police judge,	13,678	87.1	—	2,804
To increase salaries of councilmen,	13,905	88.5	—	6,395

1907 — *Concluded.*

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To create office of sergeant of police, .	12,864	81.9	2,556	—
To create free employment bureau, .	13,449	85.6	6,583	—
To annex territory, .	11,950	76.1	3,996	—
To create board of engineer examiners, .	13,172	83.8	—	1,790
To regulate electrical wiring, .	13,179	83.9	—	2,059
To grant franchise to gas company, .	13,915	88.6	3,385	—
To increase liquor license fees, .	14,203	90.4	1,735	—
To fix wholesale liquor license fees, .	13,599	86.6	4,389	—

Average vote cast for eight city officers, 15,701; highest (mayor), 16,919; lowest (councilmen), 14,866.

1909.

To adopt commission form of government, .	15,673	93.8	—	5,867
To levy cost of water mains on property benefited, .	14,824	88.8	—	6,806
To pay cost of water mains out of water fund, .	14,122	84.5	472	—
To amend provisions for official advertising, .	14,581	87.3	—	3,785
To regulate electric wiring, .	14,989	89.7	—	1,943
To require franchise holders to keep books of account, .	14,746	88.3	5,858	—
To amend section creating women's auxiliary of police, .	15,065	90.2	1,031	—
To purchase warrants from any idle fund, .	14,470	86.6	—	2,904
To permit bank of \$50,000 capital to apply for deposits, .	14,273	85.5	87	—
To deposit funds upon open accounts, .	13,952	83.5	—	3,050
To take chief deputy engineer and others from civil service, .	14,151	84.7	—	2,777
Regulating discharge of employees in civil service, .	14,617	87.5	2,331	—
To authorize deputy clerk in police court, .	14,610	87.5	—	3,806
To authorize auditor to act as clerk of viewers, .	14,241	85.3	3,999	—
To withhold delivery of warrants till proof of prior liens is filed, .	14,048	84.1	3,320	—
To require assurances of rededication on vacating streets, .	13,538	81.1	1,942	—
To appropriate earth above street grades, .	14,202	85.0	896	—
To provide bonding assessments for street and sewer work, .	13,805	82.6	1,777	—
To increase rate of interest on delinquent assessments, .	14,122	84.5	—	6,140
To provide that acceptance of improvements by city is conclusive as to character, .	13,505	80.9	—	667

1909 — *Concluded.*

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To abolish water, park and health boards,	14,322	85.7	—	1,590
To issue bonds for water mains,	13,813	82.7	1,403	—
To permit council to fix salary of city engineer,	14,461	86.6	—	3,039
To permit council to fix salary of city treasurer,	14,282	85.5	—	7,342
To permit council to fix salary of city attorney,	14,491	86.8	—	7,371
To issue crematory bonds,	15,481	92.7	7,999	—
To issue Broadway bridge bonds,	16,139	96.6	4,017	—
To regulate electric poles, wires, etc.,	14,597	87.4	1,673	—
To transfer Hawthorne bridge to Market street,	15,953	95.5	—	11,495
To issue Sherman street bridge bonds,	15,499	92.8	—	9,017
To prohibit use of patented articles,	14,885	89.1	—	9,415
To grant a corporation exclusive privilege of selling liquor for ten years,	16,111	96.5	—	13,913
To create an excise board to control sale of liquor,	15,559	93.2	—	9,233
To issue light and power bonds,	15,723	94.1	—	3,645
To license vehicles,	15,443	92.5	—	815

Average vote cast for seven city officers, 16,693; highest (mayor), 17,751; lowest (councilmen), 15,802.

Special Election.

1910.

To issue dock bonds,	27,076	—	10,466	—
To issue bonds for water system,	26,261	—	3,645	—
To increase salary of city engineer,	25,605	—	—	609
To increase salary of city attorney,	25,439	—	—	1,531

1911.

To issue Meade street bridge bonds,	25,471	96.8	—	2,411
To levy tax for street cleaning fund,	22,807	86.7	2,765	—
To pension firemen,	25,277	96.1	—	3,643
To increase city attorney's salary,	24,080	91.5	—	2,926
To pension policemen,	25,057	95.2	—	9,977
To issue bonds for municipal building,	24,669	93.8	12,575	—
To issue park bonds,	24,674	93.8	—	10,522
To fill gulches out of special bridge fund,	23,245	88.3	3,373	—
To issue public auditorium bonds,	24,686	93.8	3,144	—
To issue bonds for garbage collecting system,	24,119	91.7	5,497	—
To increase salary of city engineer,	23,807	90.5	—	99

1911 — Concluded.

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To pension men in street cleaning department,	24,550	93.3	—	14,542
To require two or more sets of plans for sewer work,	23,116	87.9	6,956	—
No seat no fare ordinance,	25,736	97.8	—	8,308
To levy license tax on gross receipts of gas companies,	24,206	92.0	3,104	—
To levy license tax on gross receipts of electric companies,	23,923	90.9	2,817	—
To create a public service commission,	22,897	87.0	—	485
To issue bonds for municipal paving plant,	24,160	91.8	—	7,264
To prevent rights and interests of city from being divested,	22,947	87.2	6,551	—
To regulate fences and bill boards,	24,631	93.6	5,623	—
To authorize council to determine lowest bidder and select street improvement,	22,597	85.9	1,139	—
To prevent carrying of banners,	24,872	94.5	—	8,380
To prevent boycotting,	24,952	94.9	—	756

Average vote cast for ten city officers, 26,293; highest (mayor), 28,006; lowest (councilmen), 25,423.

Special Election.

1912.

To adopt commission form of government,	25,353	—	—	917
To issue bonds to buy Ross Island,	25,449	—	—	15,043
To issue bonds for a South Portland bridge,	25,444	—	—	9,362
To issue incinerator bonds,	25,262	—	—	1,496
To issue park and boulevard bonds,	25,271	—	—	6,047
To issue bonds for site of public auditorium,	24,752	—	—	6,060
To vacate streets for public purposes,	24,520	—	8,102	—
To lengthen time for bonding street and sewer assessments,	24,708	—	16,498	—
To increase city attorney's salary,	24,959	—	—	7,599
To increase city treasurer's salary,	24,875	—	—	8,471
To increase city engineer's salary,	25,056	—	—	6,000
To create office of city prosecutor,	24,561	—	—	11,575
To bond street extension assessments,	23,826	—	9,206	—
To take police out of civil service,	25,567	—	—	13,537
To levy general tax to pay water bonds when fund is short,	24,287	—	—	7,063
To authorize city engineer to make street assessments,	24,101	—	3,209	—
To issue public market bonds,	25,274	—	—	288
To create public service commission,	24,248	—	—	7,796

1912—Concluded.

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
To charge three cents toll for cars on bridges,	24,905	—	9,711	—
To indorse Greater Portland plans,	24,198	—	8,206	—
To grant electric company franchise,	25,818	—	21,924	—
To adopt a short charter creating commission government,	24,655	—	—	17,489

Special Election on Commission Charter and Nominating or Primary Election under old Charter to be effective if Commission Charter failed to carry.

1913.

To adopt the commission form of government,	14,332	135.8	292	—
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Average vote cast for candidates for seven offices, 25,282; highest (mayor) 30,674; lowest (city attorney), 22,517.

*Regular Election.***1913.**

To pension firemen,	42,353	99.6	13,553	—
To grant street railway franchise,	40,236	94.6	—	10,502
To repeal railroad franchise,	37,009	87.0	—	5,125
To repeal railroad franchise,	36,854	86.7	—	4,970
To issue bonds for a South Portland bridge,	39,467	92.8	—	14,125
To issue incinerator bonds,	38,954	91.6	6,812	—
To pay part of street assessments by city,	36,421	85.7	—	525
To issue bonds for parks and play grounds,	39,183	92.2	—	7,621
To permit indeterminate sentences for violation of city laws,	34,737	81.7	7,317	—
To issue bonds for historical society building,	38,113	89.6	—	17,597
To eliminate grade crossings,	34,534	81.2	9,560	—
To issue bonds to buy Council Crest Park,	38,965	91.6	—	12,643
To authorize a common transportation terminal,	33,775	79.4	9,055	—
To retain public docks commission,	35,630	83.8	10,544	—

Average vote for six city officers, 42,494; highest (mayor), 45,521; lowest (commissioner), 41,456.

Special Election December 9.
1913.

MEASURES VOTED ON.	Total Vote on Measure.	Per Cent of Average Vote for Officers.	MAJORITY.	
			For.	Against.
Improvement bonding account,	14,672	-	-	5,132
To exempt certain city officers from being registered voters,	14,591	-	-	8,913
To exempt certain city officers from being citizens of United States,	14,636	-	-	9,714
To allow city to acquire property out- side of city limits,	14,164	-	-	7,982
To make efficiency instead of date of order of discharge controlling factor in reappointment of civil service em- ployees,	14,509	-	-	4,131
To define powers of municipal court,	14,111	-	-	5,273
To change methods of passage of ordi- nances,	14,299	-	-	4,211
Amendment in reference to sale of pub- lic utility certificates,	14,192	-	-	8,788
To exempt certain officers from civil service regulations,	14,442	-	-	7,634
To require council to act by ordinance, Regulating sale of bonds and public utility certificates,	14,000	-	-	6,538
Municipal paving bond issue,	14,296	-	-	4,076
Public market bond issue,	14,622	-	-	7,606
Park and playgrounds bonds,	14,752	-	-	4,398
To amend fireman's pension act,	14,765	-	-	9,921
	14,609	-	-	1,231

Regular City Election.
1915.

To provide water meters,	35,047	105.7	-	3,377
To adopt a Sunday closing ordinance, To provide for reappointment in order of original appointment in civil serv- ice,	33,799	101.9	-	13,205
To provide garbage system,	26,960	81.3	8,090	-
To provide method of eliminating grade crossings,	33,395	100.7	-	7,327
To turn over pound to Humane So- ciety,	28,178	85.0	12,400	-
To regulate jitneys,	31,040	93.6	8,324	-
To provide for method of levying street assessments,	35,152	106.0	7,034	-
To pension firemen,	28,144	84.9	5,880	-
To erect firestops,	30,875	93.1	10,999	-
To annex St. Johns,	30,086	90.7	7,904	-
To annex Linnton,	35,817	108.0	24,097	-
	35,383	106.7	9,009	-

The average vote for three city officers was 33,504.

Recall Election, October 31, 1914. — Vote on whether City Officials shall be recalled.

	Yes.	No.
Mayor H. R. Albee,	15,455	33,687
Commissioner R. G. Dieck,	20,146	28,297
W. L. Brewster,	17,896	28,976

	First Choice.	Second Choice.
At this recall election —		
Albee received for mayor,	29,219	385
Dieck received for commissioner,	23,679	385
Brewster received for commissioner,	25,223	—

Five other candidates for the three offices received a total of 48,888 first choice votes and 17,670 second choice votes. One ordinance was voted on.

	Yes.	No.
Water rate ordinance,	23,392	21,726

NOTE. — Besides the tables here printed, detailed tables showing the nature of every initiative or referendum measure ever submitted in any State in the Union and the vote thereon have been compiled and may be consulted in the State Library.

APPENDIX E.

BIBLIOGRAPHY.

In the past decade the "literature" relating to the Initiative and Referendum has become very voluminous. The titles in a bibliography of the subject might easily be extended into the hundreds. It has been determined to limit sharply the suggestions here presented. For further titles, see "Select List of References on Initiative, Referendum and Recall," by H. H. B. Meyer, Library of Congress, 1912. Supplementary lists have been compiled in the Library of Congress down to date. Several of the books mentioned below contain extensive bibliographies.

Equity. A quarterly review, edited by Charles F. Taylor, Philadelphia, which for a decade has specialized on the Initiative and Referendum, the Recall, etc. Its attitude is that of thoroughgoing advocacy. Contains a mass of detail-information, not to be found elsewhere. Has published Tables of Votings on Constitutional Amendments and Initiative and Referendum measures.

Beard, C. A., and Shultz, B. E. Documents on the State-wide Initiative, Referendum and Recall. Macmillan, N. Y., 1912. Contains all constitutional amendments relating to these subjects, adopted or proposed, to August, 1911, and much illustrative material, and analysis of important court decisions. The Introductory Note by Professor Beard is very discriminating.

Annals of the American Academy of Political and Social Science. Special issue of September, 1912 (352 pp.), devoted entirely to the Initiative, Referendum and Recall. 18 articles, by different authors, on many phases of the subject. Of especial value: W. E. Rappard, on "Swiss Experience," and W. F. Dodd on "The Technique of Amendments." Contains a very extensive bibliography.

Lowell, A. L. Public Opinion and Popular Government. Longmans, N. Y., 1914. Part III., "Methods of Expressing Public Opinion," pp. 113-233, is devoted largely to the Initiative and Referendum. The author's attitude is critical, finding little promise of usefulness in the Initiative and Referendum. Appendixes A. and B. contain very valuable Tables of Votings on measures both in Switzerland and America.

Munro, W. B., ed. The Initiative, Referendum and Recall. Appleton, N. Y., 1912, pp. 365. Contains a discriminating introductory chapter by the editor and valuable articles, from diverse points of view, by Theodore Roosevelt, Woodrow Wilson, A. Lawrence Lowell, Samuel W. McCall and others. Bibliography.

- Lobingier, C. S. *The People's Law*. Macmillan, N. Y., 1909, pp. 429. Mainly historical, in its elaborate treatment of law-making by the people. Especially detailed in presentation of popular ratification of constitutions and amendments.
- Oberholtzer, E. P. *The Initiative, Referendum and Recall in America*. Scribners, N. Y., 1911. A standard work. The first 15 chapters, published in 1900, are an historical and analytical presentation of the early forms of Referendum in America. The supplementary chapters, covering the period 1900 to 1910, are harshly critical of the developments of that decade.
- Wilcox, D. F. *Government by All the People, or The Initiative, Referendum and Recall as Instruments of Democracy*. Macmillan, N. Y., 1912, pp. 325. Discussion for the most part in enthusiastic defense of these methods of law-making and control.
- Dodd, W. F. *Revision and Amendment of State Constitutions*. Johns Hopkins University Press, Baltimore, 1910. Within its restricted field, its treatment of the Initiative and Referendum is dispassionate and very valuable.
- Holcombe, A. N. *State Government in the United States*. Macmillan, N. Y., 1916, pp. 498. Chapter XIII, "Direct Legislation by the Electorates" discusses many of the most up-to-date phases of the Initiative and Referendum.
- Wisconsin Library Commission. *Comparative Legislation Bulletin*, No. 25. *The Initiative and Referendum State Legislation*. Compiled by Charles H. Talbot. Madison, 1913.

Oregon is the State whose experience with the Initiative and Referendum has been by far the greatest, and its institutions, therefore, best repay intensive study.

- Barnett, J. D. *The Operation of the Initiative, Referendum and Recall in Oregon*. Macmillan, N. Y., 1915. A scholarly and very valuable presentation of the "Oregon System."
- Hedges, G. L. *Where the People Rule*. Bender-Moss Co., San Francisco, 1914. Contains valuable information. Opposed, in general, to the Oregon practices.
- Montague, R. W. *The Oregon System at Work*. Reprinted from the *National Municipal Review*, April, 1914, 27 pp. An admirable study, by the compiler of the official publication of the statutes. He brings to this study exceptional knowledge of all the general laws of Oregon, and notable fairmindedness. Includes Tables of Votes in Oregon and Portland city elections.
- Haynes, G. H. *A Year of "People's Rule in Oregon."* A "laboratory report." *Political Science Quarterly*, Vol. XXVI, No. 1. Reprinted in *The Initiative, Referendum and Recall*, ed. by W. B. Muzzo.

- Holman, F. V. The Unfavorable Results of Direct Legislation in Oregon. An Oregon lawyer's adverse criticism. Chapter XI, in *The Initiative, Referendum and Recall*, ed. by W. B. Munro.
- U'Ren, W. S. The Results of the Initiative and Referendum in Oregon. *Proceedings of the American Political Science Association, 1907*, Vol. IV., pp. 193-197. By the "Father of the Oregon System."

All the books named in the bibliographies printed with these Bulletins may be found in the rooms set apart for the Delegates to the Convention in the State Library.

Library of L. B. Shaw
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CONVENTION No. 302

Printed by order of the Convention. June 20.

The Commonwealth of Massachusetts. *Commission to*
compile information and data for the use of
the **CONSTITUTIONAL CONVENTION.**

In the Year One Thousand Nine Hundred and Seventeen.

THE CONSTITUTION OF MASSACHUSETTS TENTATIVELY REARRANGED IN CODI- FIED FORM BY THE COMMISSION TO COMPILE INFORMATION AND DATA.

FOREWORD.

The Committee on Amendment and Codification have requested the Commission to prepare a copy of the existing Constitution, codified by striking out all repealed, superseded and obsolete parts, and by inserting the amendments in their proper places in the main text, to the end that the delegates may know exactly what is the present status and effect of the instrument which they have been called together to revise.

Compliance with this request has involved a task of great difficulty, owing to the fact that the question as to what parts of the Constitution are now in force, and as to the exact effect of the various amendments, is properly a question for the determination of the Supreme Judicial Court, after a full argument and hearing. Until such a determination is had, the correctness of any attempted codification is largely a matter of individual opinion. Accordingly every changed article has been accompanied with a note explaining just what amendments appear to have affected the original Article. Articles having no note are unchanged from the original.

The original numbering of chapter, section and article has been retained; as also the paragraph numbering adopted by the Commission in the editions of the Constitution provided for the use of the Convention.

The original language and spelling have been retained. No attempt has been made to strike out, or even to indicate, such parts of the Constitution as may have been openly disregarded for years, nor to make the terminology of the amendments consistent with that of the original text, although these changes might well come within the duties of an official codifier. Thus, for example, the provisions relative to elections in towns have been retained, and "councillor" and "legislature" appear along with "counsellor" and "General Court."

In only thirteen instances has it been necessary to interpolate words. These are indicated by brackets.

PREAMBLE.

¹ THE end of the institution, maintenance and administration of government, is to secure the existence of the body-politic, to protect it, and to furnish the individuals who compose it, with the power of enjoying in safety and tranquility their natural rights, and the blessings of life: And whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness — The Body-politic is formed by a Voluntary association of individuals: It is a social compact, by which the whole people covenants with each Citizen, and each Citizen with the whole people, that all shall be governed by certain Laws for the Common good. It is the duty of the people, therefore, in framing a Constitution of Government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them. WE, therefore, the People of Massachusetts, acknowledging, with grateful hearts, the goodness of the Great Legislator of the Universe, in affording us, in the course of his Providence, an opportunity, deliberately and peaceably, without fraud, violence or surprize, of entering into an Original, explicit and Solemn Compact with each other; and of forming a New Constitution of Civil Government, for Ourselves and Posterity; and devoutly imploring His direction in so interesting a Design, DO agree upon, ordain and establish, the following DECLARATION OF RIGHTS, AND FRAME OF GOVERNMENT, AS THE CONSTITUTION OF THE COMMON-WEALTH OF MASSACHUSETTS.

PART the First.

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS.

² ART. I. ALL men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their Lives and Liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

³ II. It is the right as well as the Duty of all men in society, publickly, and at stated seasons to worship the SUPREME BEING, the great Creator and preserver of the Universe. And no Subject shall be hurt, molested, or restrained, in his Person, Liberty, or Estate, for worshipping God in the manner and season most agreeable to the Dictates of his own conscience, or for his religious Profession or sentiments; provided he doth not Disturb the public peace, or obstruct others in their religious Worship. —

¹⁵⁸ III. As the public worship of God and instructions in piety, religion and morality, promote the happiness and prosperity of a people and the security of a Republican Government; — Therefore, the several religious societies of this Commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses: And all persons belonging to any religious society shall be taken and held to be members, until they shall file with the Clerk of such Society, a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract, which may be thereafter made, or entered into by such society: — And all religious sects and denominations demeaning themselves peaceably and as good citizens of the Commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

¹⁶⁵ All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be

appropriated by the State for the support of common schools, shall be applied to and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance exclusively of its own schools.

In its original form, this article provided for the election of Protestant ministers and for taxation for their support, a man's taxes to be applied to the support of a minister of his own denomination if there were any whose church he regularly attended, otherwise to the support of the dominant sect of the town.

In 1836 the first paragraph above was substituted by Amendment XI. The second paragraph is Amendment XVIII, adopted in 1855.

⁵ IV. THE people of this Commonwealth have the sole and exclusive right of governing themselves as a free, sovereign, and independent State; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them expressly delegated to the UNITED STATES OF AMERICA in Congress assembled. —

⁶ V. ALL power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them. —

⁷ VI. No man, nor Corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the Community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural. —

⁸ VII. GOVERNMENT is instituted for the Common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or Class of men: Therefore the people alone have an incontestable, unalienable, and infeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it. —

⁹ VIII. IN order to prevent those, who are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments. —

¹⁰ IX. ALL elections ought to be free; and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments. —

¹¹ X. EACH individual of the society has a right to be protected by it in the enjoyment of his life, Liberty and property, according to standing Laws. He is obliged, Consequently, to contribute his share to the expence of this protection; to give his personal service, or an equivalent, when necessary: But no part of the property of any individual, can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this Commonwealth are not controulable by any other Laws than those to which their Constitutional representative body have given their consent. And whenever the public exigencies require, that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor. —

¹⁸⁶ The legislature may by special acts for the purpose of laying out, widening or relocating highways or streets, authorize the taking in fee by the commonwealth, or by a county, city or town, of more land and property than are needed for the actual construction of such highway or street: *provided, however,* that the land and property authorized to be taken are specified in the act and are no more in extent than would be sufficient for suitable building lots on both sides of such highway or street, and after so much of the land or property has been appropriated for such highway or street as is needed therefor, may authorize the sale of the remainder for value with or without suitable restrictions.

¹⁹⁰ The general court shall have power to authorize the commonwealth to take land and to hold, improve, sub-divide, build upon and sell the same, for the purpose of relieving congestion of population and providing homes for citizens: *provided, however,* that this shall not be deemed to authorize

the sale of such land or buildings at less than the cost thereof.

The first paragraph is the original Article X. The other two paragraphs, extending "public uses," are Amendments XXXIX and XLIII, adopted in 1911 and 1915 respectively.

¹² XI. EVERY subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; compleatly, and without any denial; promptly, and without delay; conformably to the laws. —

¹³ XII. No subject shall be held to answer for any Crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be Compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favourable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his council, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land. And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

¹⁴ XIII. In criminal prosecutions, the verification of facts in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

¹⁵ XIV. EVERY subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil Officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws. —

¹⁶ XV. IN all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practiced, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners wages, the legislature shall hereafter find it necessary to alter it. —

¹⁷ XVI. THE Liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this Commonwealth. —

¹⁸ XVII. THE people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the Legislature; and the military power shall always be held in an exact subordination to the Civil authority, and be governed by it. —

¹⁹ XVIII. A FREQUENT recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their Officers and representatives: and they have a right to require of their law givers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the Commonwealth.

²⁰ XIX. THE people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer. —

²¹ XX. THE power of suspending the Laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for. —

²² XXI. THE freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

²³ XXII. THE legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require. —

²⁴ XXIII. No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied under any pretext whatsoever, without the consent of the people or their Representatives in the legislature. —

²⁵ XXIV. LAWS made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

²⁶ XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature. —

²⁷ XXVI. No magistrate or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual Punishments.

²⁸ XXVII. IN time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of War, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

²⁹ XXVIII. No person can in any case be subjected to law martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

³⁰ XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every Citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial Court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws. —

³¹ XXX. IN the government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men. —

PART the Second.

THE FRAME OF GOVERNMENT.

³² THE people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body-politic, or State, by the name of THE COMMONWEALTH of MASSACHUSETTS.

CHAPTER I.

THE LEGISLATIVE POWER.

Section I.

THE GENERAL COURT.

³³ ART. I. THE department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other. The legislative body shall assemble every year on the first Wednesday of January, and at such other times as they shall judge necessary, or when called together by the Governor; and shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the Governor; and shall be stiled, THE GENERAL COURT of MASSACHUSETTS.

This Article originally provided for the session to begin and end on the last Wednesday of May, and did not provide for the calling of special sessions except on the Legislature's own initiative. Changed in 1831 by parts of Amendment X. The above represents a codification of the consistent parts of the Amendment and the original Article.

³⁴ II. No bill or resolve of the Senate or House of Representatives shall become a law, and have force as such, until it shall have been laid before the Governor for his revisal; And if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the Senate or House of Representatives, in which soever the same shall have originated; who shall enter the objections sent down by the Governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two-thirds of the said Senate or House of Repre-

sentatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the Commonwealth. —

³⁵ AND in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the Governor within five days after it shall have been presented, the same shall have the force of a law. —

¹³⁸ If any bill or resolve shall be objected to, and not approved by the Governor; and if the General Court shall adjourn within five days after the same shall have been laid before the Governor for his approbation, and thereby prevent his returning it with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

The last paragraph is Amendment I, adopted in 1821.

³⁶ III. THE General Court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other Courts, to be held in the name of the Commonwealth, for the hearing, trying, and determining of all manner of Crimes, offences, pleas, processes, complaints, actions, matters, causes and things, whatsoever, arising or happening within the Commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same, whether the same be criminal or Civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixt; and for the awarding and making out of execution thereupon. To which Courts and judicatories are hereby given and granted full power and authority, from time to time, to administer Oaths or affirmations, for the better discovery of truth in any matter in Controversy or depending before them. —

³⁷ IV. AND further, full power and authority are hereby given and granted to the said General Court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable Orders, laws, statutes, and ordinances, direc-

tions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this Constitution, as they shall judge to be for the good and welfare of this Commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within the said Commonwealth, the election and Constitution of whom are not hereafter in this Form of Government otherwise provided for; and to set forth the several duties, powers, and limits, of the several Civil and military officers of this Commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several Offices and places, so as the same be not repugnant or contrary to this Constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said Commonwealth; and also to impose and levy, reasonable duties and excises, upon any produce, goods, wares, merchandize, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the Governor of this Commonwealth for the time being, with the advice and consent of the Council, for the public service, in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same. —

³⁸ AND while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practiced, in order that such assessments may be made with equality, there shall be a valuation of estates within the Commonwealth taken anew once in every ten years at least, and as much oftener as the General Court shall order. —

The effect of the taxation provisions above set forth has been to some extent altered by Amendments XLI and XLIV, adopted in 1912 and 1915, respectively, and here printed as the next two Articles of this section.

¹⁸⁸ V. Full power and authority are hereby given and granted to the general court to prescribe for wild or forest

lands such methods of taxation as will develop and conserve the forest resources of the commonwealth.

This is Amendment XLI, adopted in 1912.

¹⁹¹ VI. Full power and authority are hereby given and granted to the general court to impose and levy a tax on income in the manner hereinafter provided. Such tax may be at different rates upon income derived from different classes of property, but shall be levied at a uniform rate throughout the commonwealth upon incomes derived from the same class of property. The general court may tax income not derived from property at a lower rate than income derived from property, and may grant reasonable exemptions and abatements. Any class of property the income from which is taxed under the provisions of this article may be exempted from the imposition and levying of proportional and reasonable assessments, rates and taxes as at present authorized by the constitution. This article shall not be construed to limit the power of the general court to impose and levy reasonable duties and excises.

This is Amendment XLIV, adopted in 1915.

¹⁸⁹ VII. Full power and authority are hereby given and granted to the general court to refer to the people for their rejection or approval at the polls any act or resolve of the general court or any part or parts thereof. Such reference shall be by a majority yea and nay vote of all members of each house present and voting. Any act, resolve, or part thereof so referred shall be voted on at the regular state election next ensuing after such reference, shall become law if approved by a majority of the voters voting thereon, and shall take effect at the expiration of thirty days after the election at which it was approved or at such time after the expiration of the said thirty days as may be fixed in such act, resolve or part thereof.

This is Amendment XLII, adopted in 1913.

¹³⁹ VIII. The General Court shall have full power & authority to erect and constitute municipal or city governments, in any corporate town or towns in this Commonwealth, and to

grant to the inhabitants thereof such powers, privileges & immunities, not repugnant to the constitution as the General Court shall deem necessary or expedient for the regulation & government thereof & to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present & voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose. And Provided also, that all by-laws made by such municipal or city government shall be subject, at all times to be annulled by the General Court.

This is Amendment II, adopted in 1821.

¹⁷⁶ IX. The general court shall have full power and authority to provide for the inhabitants of the towns in this Commonwealth more than one place of public meeting within the limits of each town for the election of officers under the Constitution, and to prescribe the manner of calling, holding and conducting such meetings. All the provisions of the existing Constitution inconsistent with the provisions herein contained are hereby annulled.

This is Amendment XXIX, adopted in 1885.

CHAPTER I.

Section II.

SENATE.

¹⁶⁹ I. The Senate shall consist of forty members. The General Court shall, at its first session after each next preceding special enumeration, divide the Commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: — *provided, however*, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one Senator.

The original Article provided that the General Court should divide the State into not less than thirteen districts, which should each elect a number of Senators in proportion to the amount of taxes paid, the Senators to be forty in all.

This was superseded by Amendment XIII, adopted in 1840, which provided that the then districts should be permanent, but that the number of Senators should be apportioned on the basis of population according to a decennial census.

The present provisions were established by Amendment XXII, adopted in 1857.

⁴¹ II. THE Senate shall be the first branch of the legislature; and the Senators shall be chosen in the following manner, viz. There shall be a meeting on the Tuesday next after the first Monday in November annually, forever, of the inhabitants of each town in the several counties of this Commonwealth; to be called by the Selectmen, and warned in due course of law, at least Seven days before the Tuesday next after the first Monday in November, for the purpose of electing persons to be Senators. And to remove all doubts concerning the meaning of the word "inhabitant" in this Constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this State, in that town, district or plantation, where he dwelleth, or hath his home. The Selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such Towns present and qualified to vote for Senators, and shall sort and count them in open town meeting, and in presence of the Town-Clerk; who shall make a fair record, in presence of the Selectmen, and in open town-meeting, of the name of every person voted for, and of the number of votes against his name: and a fair copy of this record shall be attested by the Selectmen and the Town-Clerk, and shall be sealed up, directed to the Secretary of the Commonwealth for the time being, with a superscription, expressing the purport of the Contents thereof, and delivered by the Town-Clerk of such Towns, to the Sheriff of the County in which such town lies, thirty days at least before the first Wednesday in January annually; or it shall be delivered into the Secretary's office seventeen days at least before the said first Wednesday in January: — And the Sheriff of each County shall deliver all such Certificates by him received, into the Secretary's Office, seventeen Days before the said first Wednesday in January.

This Article originally included the qualifications of voters for Senators. These have been changed several times. The present provisions, with their history, appear in this codification as Ch. II, Sec. 5.

The election date was originally the first Monday in April. Changed to the second Monday of November in 1831, by Amendment X. Changed to the present date in 1855, by Amendment XV. The political year originally began on the last Wednesday in May. Changed to the present date by Amendment X, in 1831.

The provisions for voting in plantations and unincorporated places have here been omitted, as there are no longer any such places in Massachusetts.

By Amendments II and XXIX, printed in this codification as Ch. I, Sec. I, Arts. VIII and IX, the election laws for cities and for towns divided into precincts are to be provided for by simple statute.

The definition of the word "inhabitant," being general in its nature, really ought to be transferred to some other part of the Constitution, perhaps to take the place of Ch. VI, Art. III.

⁴³ III. AND that there may be a due convention of Senators on the first Wednesday in January annually, the Governor with five of the Council, for the time being, shall, as soon as may be, examine the returned Copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by having the highest number of votes, to attend on that day, and take their seats accordingly. —

The political year originally began on the last Wednesday in May. Changed to the first Wednesday in January in 1831, by Amendment X.

Senators were originally to be elected by a majority vote. Plurality vote substituted in all elections by Amendment XIV, in 1855.

Provisions relative to the first year are here stricken out as obsolete.

⁴⁴ IV. THE Senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the Constitution; and shall, on the said first Wednesday in January, annually, determine and declare who are elected by each district to be Senators.

¹⁷¹ Any vacancy in the Senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of Senators elected.

Beginning of political year changed from the last Wednesday in May to the first Wednesday in January by Amendment X, in 1831.

The above Article originally contained elaborate provisions for filling, by a joint session, vacancies caused by failure to receive a majority vote,

or by other causes. The requirement of a majority vote was removed by Amendment XIV, in 1855, and the above provision for filling all vacancies was substituted in 1860, by Amendment XXIV.

⁴⁵ V. PROVIDED nevertheless, that no person shall be capable of being elected as a Senator, who has not been an inhabitant of this Commonwealth for the space of five years immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the Commonwealth.

This Article originally contained a property qualification, requiring ownership of a three hundred pound freehold or a six hundred pound personal estate. Abolished in 1840 by Amendment XIII.

The provision that a Senator should vacate his seat by removing from the Commonwealth was established by Amendment XXII, in 1857.

⁴⁶ VI. THE Senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time. —

⁴⁷ VII. THE Senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings. —

⁴⁸ VIII. THE Senate shall be a court with full authority to hear and determine all impeachments made by the House of Representatives, against any officer or officers of the Commonwealth, for misconduct and mal-administration in their offices. But previous to the trial of every impeachment the members of the Senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this Commonwealth: But the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land. —

¹⁸⁰ IX. A majority of the members of [the Senate] shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and compel the attendance of absent members.

Amendment XXII provided for adjournment of less than a quorum. The original Article set sixteen as the number. The above is adapted from Amendment XXXIII, adopted in 1891.

CHAPTER I.**Section III.****HOUSE OF REPRESENTATIVES.**

⁵⁰ I. THERE shall be in the Legislature of this Commonwealth, a representation of the people, annually elected, and founded upon the principle of equality. —

¹⁶⁸ II. The House of Representatives shall consist of two hundred and forty members, which shall be apportioned by the Legislature, at its first session after the return of each enumeration, to the several counties of the Commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the Secretary of the Commonwealth, to certify, as soon as may be after it is determined by the Legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk, — or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the

board, to the Secretary of the Commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law.

⁵³ AND the House of Representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this Constitution. —

The first part of this Article originally provided that each town of less than 375 polls should have one representative, each town of 375 polls should have two, with one additional representative for each additional 225 polls; but that no town should thereafter be incorporated with less than 150 polls.

In 1836 this was changed by Amendment XII to provide one representative for the first 300 polls, and one for each additional 450; towns of less than 300 polls to have a representative so many years out of ten, as might be determined by the Governor and Council from a certain mathematical formula. Towns might combine to form representative districts. In 1840, by Amendment XIII, this was put on the basis of 1,200 and 2,400 inhabitants.

In 1857 the present system was adopted by the passage of Amendment XXI.

The last paragraph of the Article, as above printed, is still in its original form.

One further paragraph of this Article originally provided for paying each member of the House his actual traveling expenses each way once each session of the Legislature. Amendment XXXV, in 1893, annulled this paragraph. The matter of traveling expenses of members is now regulated by statute.

⁵⁵ III. EVERY member of the House of Representatives shall be chosen by written votes, [or as hereinafter provided.] Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the Commonwealth.

An alternative method of election, namely, by voting machines, is now provided by Amendment XXXVIII, adopted in 1911, and printed in this codification as Ch. II, Sec. V, Art. V. Hence we have inserted the words "or as hereinafter provided."

This Article originally contained a property qualification, which was abolished in 1840 by a part of Amendment XIII.

The residential qualification printed as the second paragraph above is a part of Amendment XXI, adopted in 1857. The original provision had required residence in *the town*, and the member's seat became vacant upon moving from *the town*.

⁵⁶ IV. (Superseded.)

In this codification all provisions relative to voting qualifications are printed together as Ch. II, Sec. 5. See there for history and interpretation of the present provisions.

⁵⁷ V. THE members of the House of Representatives shall be chosen annually on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect representatives on that day, a second meeting shall be holden for that purpose on the fourth Monday of the same month of November.

Elections for representatives were originally held annually in May, ten days at least before the last Wednesday of that month. Changed to the second Monday of November by Amendment X, in 1831, which Amendment also introduced the present date for a second election if necessary. The present date for the first election was established by Amendment XV, in 1855.

⁵⁸ VI. THE House of Representatives shall be the Grand Inquest of this Commonwealth; and all impeachments made by them, shall be heard and tried by the Senate.

⁵⁹ VII. ALL money-bills shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills. —

⁶⁰ VIII. THE House of Representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time. —

¹⁸⁰ IX. A majority of the members of [the House of Representatives] shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and compel the attendance of absent members.

Originally sixty members constituted a quorum. In 1857, by Amendment XXI, this number was increased to one hundred, and in 1891, by Amendment XXXIII, the present provision was established.

⁶² X. THE House of Representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the Constitution; shall chuse their own

Speaker; appoint their own officers, and settle the rules and orders of proceeding in their own House. They shall have authority to punish by imprisonment, every person, not a member, who shall be guilty of disrespect to the House, by any disorderly, or contemptuous behaviour, in its presence; or who, in the town where the General Court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the House; or who shall assault any of them therefor; or who shall assault, or arrest, any witness, or other person, ordered to attend the House, in his way in going or returning; or who shall rescue any person arrested by the order of the House — And no member of the House of Representatives shall be arrested, or held to bail on mean process, during his going unto, returning from, or his attending the General Assembly. —

⁶³ XI. THE Senate shall have the same powers in the like cases; and the Governor and Council shall have the same authority to punish in like cases. Provided that no imprisonment on the warrant or order of the Governor, Council, Senate, or House of Representatives, for either of the above-described offences, be for a term exceeding thirty days. —

⁶⁴ AND the Senate and House of Representatives may try, and determine, all cases where their rights and privileges are concerned, and which, by the Constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best. —

CHAPTER II.

EXECUTIVE POWER.

Section I.

GOVERNOR.

⁶⁵ I. THERE shall be a supreme executive Magistrate, who shall be stiled, THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be— HIS EXCELLENCY. —

⁶⁶ II. THE Governor shall be chosen annually: and no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this Commonwealth for seven years next preceding.

¹⁵² The Governor shall hold [his office] for one year next following the first Wednesday in January, and until [another is] chosen and qualified in [his] stead.

Originally the Governor had to declare himself to be a Christian and own a freehold of one thousand pounds. The declaration was abolished in 1821 by Amendment VII, and the property qualification in 1892 by Amendment XXXIV.

The provision relative to the term of office is adapted from Amendment X, adopted in 1831.

⁶⁷ III. THOSE persons who shall be qualified to vote for Senators and Representatives within the several Towns of this Commonwealth, shall, at a meeting to be called for that purpose, on the Tuesday next after the first Monday of November, annually, give in their votes for a Governor, to the Selectmen who shall preside at such meetings; and the Town Clerk, in the presence and with the assistance of the Selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the Town Books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the Selectmen, and transmit the same to the Sheriff of the county, thirty days at least before the first Wednesday in January; and the Sheriff shall transmit the same to the Secretarys Office, seventeen days at least before the said first Wednesday in January; or the Selectmen may cause returns of the same to be made to the office of the Secretary of the Commonwealth, seventeen days at least before the said day; and the Secretary shall lay the same before the Senate and the House of Representatives, on the first Wednesday in January, to be by them examined: And in case of an election by having the highest number of all the votes returned, the choice shall be by them declared and published; but if no one person shall have the highest number of votes, the House of Representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for, and make return to the Senate of the two persons so elected; on which the Senate shall proceed, by ballot, to elect one, who shall be declared Governor —

The election date was originally the first Monday of April. Changed to the second Monday of November in 1831, by Amendment X. Changed to the present date in 1855, by Amendment XV. The political year originally began on the last Wednesday in May. Changed to the present date by said Amendment X.

Plurality vote substituted for majority vote by Amendment XIV, in 1855.

⁶⁸ IV. THE Governor shall have authority from time to time, at his discretion, to assemble and call together the Counsellors of this Commonwealth for the time being; and the Governor with the said Counsellors, or five of them at least, shall, and may, from time to time hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, agreeably to the Constitution and the laws of the land. —

⁶⁹ V. THE Governor, with advice of Council, shall have full power and authority, during the Session of the General Court, to adjourn or prorogue the same to any time the two houses shall desire; and in the recess of the said Court, to prorogue the same from time to time, not exceeding ninety days in any one recess; and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the Commonwealth shall require the same: And in case of any infectious distemper prevailing in the place where the said Court is next at any time to convene or any other cause happening whereby danger may arise to the health or lives of the members from their attendance, he may direct the Session to be held at some other, the most convenient place within the State. —

In addition to what is printed above, this Article originally contained provisions for the dissolution of the General Court by the Governor. This was superseded in 1831 by the provision for automatic dissolution, contained in Amendment X, here printed in Ch. I, Sec. I, Art. I.

⁷¹ VI. IN cases of disagreement between the two Houses, with regard to the necessity, expediency or time of adjournment, or prorogation, the Governor, with advice of the Council, shall have a right to adjourn or prorogue the General Court, not exceeding ninety days, as he shall determine the public good shall require. —

⁷² VII. THE Governor of this Commonwealth, for the time being, shall be the commander in chief of the army and navy, and of all the military forces of the State, by sea and land;

and shall have full power by himself, or by any commander, or other officer or officers from time to time, to train, instruct, exercise and govern the militia and navy; and, for the special defence and safety of the Commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them, to encounter, repel, resist, expel and pursue, by force of arms, as well by sea as by land, within or without the limits of this Commonwealth, and also to kill, slay and destroy, if necessary, and conquer, by all fitting ways, enterprizes, and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment, or annoyance of this Commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law martial, in time of war or invasion, and also in time of rebellion, declared by the Legislature to exist, as occasion shall necessarily require; and to take and surprize by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall, in a hostile manner, invade or attempt the invading, conquering, or annoying this Commonwealth; and that the Governor be intrusted with all these and other powers, incident to the offices of Captain-General and Commander in Cheif, and Admiral, to be exercised agreeably to the rules and regulations of the Constitution, and the laws of the land, and not otherwise. —

⁷³ PROVIDED, that the said Governor shall not, at any time hereafter, by virtue of any power by this Constitution granted, or hereafter to be granted to him by the Legislature, transport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the General Court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the State to which they cannot otherwise conveniently have access.

⁷⁴ VIII. THE power of pardoning offences, except such as persons may be convicted of before the Senate by an impeachment of the House, shall be in the governor, by and with the advice of Council: But no charter of pardon, granted by the Governor, with advice of the Council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned. —

⁷⁵ IX. ALL judicial officers, the Solicitor-General, and Coroners, shall be nominated and appointed by the Governor, by and with the advice and Consent of the Council; and every such nomination shall be made by the Governor, and made at least seven days prior to such appointment. —

This Article originally included the attorney-general, sheriffs and registers of probate. Since 1855 these officers have been elected, instead of appointed. See Amendments XVII and XIX, here printed as Ch. II, Sec. 4, Arts. I and III.

⁷⁶ X. THE Captains and Subalterns of the militia, shall be elected by the written votes of the train band and alarm list of their respective companies: The Field Officers of regiments shall be elected by the written votes of the Captains and Subalterns of their respective regiments: The Brigadiers shall be elected in like manner, by the Field Officers of their respective brigades; And such Officers, so elected, shall be commissioned by the Governor, who shall determine their rank. —

¹⁴⁵ In the elections of Captains and Subalterns of the militia, all the members of their respective companies, as well those under as those above the age of twenty one years, shall have a right to vote. —

⁷⁷ THE Legislature shall, by standing Laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the Governor, the officers elected. —

⁷⁸ THE Major-Generals shall be appointed by the Senate and House of Representatives, each having a negative upon the other; and be commissioned by the Governor. —

⁷⁹ AND if the electors of Brigadiers, Field Officers, Captains or Subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the Governor, with advice of Council, shall appoint suitable persons to fill such offices. —

⁸¹ THE commanding officers of regiments shall appoint their adjutants and Quarter-Masters; the Brigadiers their Brigade-Majors; and the Major Generals their aids; and the Governor shall appoint the Adjutant-General. —

⁸² THE Governor, with advice of Council, shall appoint all officers of forts and garrisons. —

¹⁴³ Whenever the exigencies of the Commonwealth shall require the appointment of a Commissary General, he shall be

nominated appointed and commissioned in such manner as the Legislature may, by law, prescribe.

¹⁴⁴ All officers commissioned to command in the militia may be removed from office in such manner as the Legislature may, by law, prescribe. —

⁸³ THE divisions of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this Commonwealth, until the same shall be altered in pursuance of some future law. —

This Article originally provided that only adult soldiers should vote, and that officers should be removed by the Governor, on the address of the Legislature, after a court-martial. The present paragraphs relative to the right of minor soldiers to vote, to the appointment of a commissary-general, and to the removal of officers were established by Amendments IV and V, in 1821.

The original provisions relative to the appointment of officers of the continental army we have stricken out as obsolete.

⁸⁴ XI. No monies shall be issued out of the treasury of this Commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of Credit or Treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the Governor for the time being, with the advice and Consent of the Council, for the necessary defence and support of the Commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts & resolves of the General Court.

⁸⁵ XII. ALL public boards, the Commissary General, all superintending officers of public magazines and stores, belonging to this Commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition and at other times, when required by the Governor deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small Arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons: And the said commanding officer shall exhibit to the Governor, when required by him, true and exact plans of such forts, and of the land and sea or harbour or harbours adjacent. —

⁸⁶ AND the said boards, and all public officers, shall communicate to the Governor, as soon as may be after receiving the same, all letters, dispatches and intelligencies of a public nature, which shall be directed to them respectively. —

⁸⁷ XIII. As the public good requires that the Governor should not be under the undue influence of any of the members of the General Court by a dependence on them for his support, that he should in all cases act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns — and that he should maintain the dignity of the Commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws. —

⁸⁸ PERMANENT and honorable salaries shall also be established by law for the Justices of the supreme judicial court. —

⁸⁹ AND if it shall be found that any of the salaries aforesaid are insufficient, they shall, from time to time be enlarged as the General Court shall judge proper.

The original provisions for the establishment of salaries by the first General Court are omitted as obsolete.

CHAPTER II.

Section II.

LIEUTENANT GOVERNOR.

⁹⁰ I. THERE shall be annually elected a Lieutenant Governor of the Commonwealth of Massachusetts, whose title shall be, HIS HONOR and who shall be qualified, in point of residence in the Commonwealth, in the same manner with the Governor: And the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a Governor. — The return of the votes for this officer, and the declaration of his election, shall be in the same manner; And if no one person shall be found to have the highest number of all the votes returned, the vacancy shall be filled by the Senate and House of Representatives, in the same manner as the Governor is to be elected, in case no one person shall have the highest number of the votes of the people to be Governor. —

¹⁵² The Lieutenant Governor shall hold [his office] for one year next following the first Wednesday of January, and until [another is] chosen and qualified in [his] stead.

The Lieutenant-Governor originally had the same religious and property qualifications as the Governor. These were abolished in 1821 and 1892 by Amendments VII and XXXIV, respectively.

Majority vote changed to plurality vote by Amendment XIV, in 1855.

The provision relative to the term of office is adapted from Amendment X, adopted in 1831.

⁹¹ II. THE Governor, and in his absence the Lieutenant Governor, shall be President of the Council, but shall have no vote in Council; and the Lieutenant Governor shall always be a member of the Council, except when the chair of the Governor shall be vacant. —

⁹² III. WHENEVER the chair of the Governor shall be vacant, by reason of his Death, or absence from the Commonwealth, or otherwise, the Lieutenant Governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the Governor, and shall have and exercise all the powers and authorities, which by this Constitution the Governor is vested with, when personally present. —

CHAPTER II.

Section III.

COUNCIL, AND THE MANNER OF SETTLING ELECTIONS BY THE LEGISLATURE.

⁹³ I. THERE shall be a Council for advising the Governor in the executive part of government, to consist of eight persons besides the Lieutenant-Governor, whom the Governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together. And the Governor, with the said Counsellors, or five of them at least, shall and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the Land. —

Number of counsellors reduced from nine to eight by Amendment XVI, in 1855.

¹⁶³ II. Eight councillors shall be annually chosen by the inhabitants of this Commonwealth, qualified to vote for gov-

error. The election of councillors shall be determined by the same rule that is required in the election of governor. The legislature at its first session after each decennial State census, shall divide the Commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor: *provided, however*, that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of Councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor.

¹⁵² The Counsellors shall hold their offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

¹⁷² In case of a vacancy in the Council, from a failure of election or other cause, the Senate and House of Representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the Legislature is not in session, the Governor, with the advice and consent of the Council, may fill the same by appointment of some eligible person.

Originally nine Counsellors were chosen by the Legislature from among the forty Senators. Those chosen thereupon vacated their Senate seats. If a Senator declined to serve, the Legislature would fill his place in the Council from the people at large.

By Amendment XIII, in 1840, it was provided that all the Council be chosen from the people at large, not more than one to be taken from each senatorial district, vacancies to be filled in the same way.

The number was reduced to eight in 1855 and the present system of popular election adopted. The above Article is Amendment XVI, with the following changes:

This Amendment originally provided that vacancies should be filled as vacancies were then filled in the Senate under the original provisions of the Constitution, *i.e.*, by joint ballot of the Legislature. In 1860, as the same time that the method of filling vacancies in the Senate was changed, the same change was made with respect to vacancies in the Council, by the adoption of Amendment XXV, here printed as the last paragraph of the above Article.

Amendment XVI also originally provided a system of decennial counsellor districting, to be employed until the State should be divided into

forty senatorial districts. In 1857 Amendment XXII provided for the decennial division of the State into forty districts, and these temporary provisions thereupon became obsolete. Accordingly they are not printed here.

95 III. THE Counsellors in the civil arrangements of the Commonwealth shall have rank next after the Lieutenant Governor —

This Article originally provided that not more than two counsellors should be chosen from any one senatorial district. Superseded in 1840 by the provision of Amendment XIII, which limited one counsellor to a district. The whole rendered obsolete by the establishment of councillor districts by Amendment XVI, in 1855.

97 V. THE resolutions and advice of the Council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either House of the Legislature; and any member of the Council may insert his opinion, contrary to the resolution of the majority. —

98 VI. WHENEVER the office of the Governor and Lieutenant Governor shall be vacant, by reason of death, absence, or otherwise, then the Council, or the major part of them, shall during such vacancy, have full power and authority to do, and execute, all and every such acts, matters and things, as the Governor or the Lieutenant Governor might or could, by virtue of this Constitution, do or execute, if they, or either of them, were personally present. —

163 VII. And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

⁹⁹ AND whereas the elections appointed to be made by this Constitution, on the first Wednesday in January annually, by the two Houses of the Legislature, may not be compleated on that day, the said elections may be adjourned from day to day until the same shall be compleated. And the order of elections shall be as follows: The Governor and Lieutenant Governor shall be elected, provided there should be no choice of them by the people: And afterwards the two Houses shall proceed to [fill any vacancies in] the Council. —

The first above paragraph is part of Amendment XVI, adopted in 1855. The second is the original Article, modified as follows: Last Wednesday in May changed to first Wednesday in January by Amendment X, in 1831. Provision for vacancies in the Senate stricken out, as these must now be filled by the people, under Amendment XXV, adopted in 1860. Since Amendment XVI, adopted in 1855, counsellors are elected by the people, except in case of vacancies.

It is not clear whether the last sentence of Amendment XVI takes away from the Legislature the power to elect the Governor or Lieutenant Governor in case the people fail to elect.

CHAPTER II.

Section IV.

SECRETARY, TREASURER, &C.

¹⁶⁴ I. The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen annually, on the day in November prescribed for the choice of governor; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease in the mean time of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor,

or attorney-general, shall become vacant from any cause during an annual or special session of the general court, such vacancy shall in like manner be filled by choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this Commonwealth five years next preceding his election or appointment.

¹⁰⁰ And that the citizens of this Commonwealth may be assured, from time to time, that the monies remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as Treasurer and Receiver-General more than five years successively. — Naval Officers, shall be chosen annually, by joint ballot of the Senators and Representatives in one Room.

All of the foregoing, except the last two sentences (which were in the original), is Amendment XVII, adopted in 1855. Originally the Secretary, the Treasurer and Receiver-General, the Commissary-General and notaries public were included with naval officers for annual election by the Legislature.

By Amendment IV, adopted in 1821, the Commissary-General is to be chosen in such manner as the Legislature may provide, and notaries public are to be chosen by the Governor and Council. These provisions have been here inserted in Ch. II, Sec. 1, Art. X, and Ch. III, Art. III, respectively.

¹⁰¹ II. THE records of the Commonwealth shall be kept in the office of the Secretary, who may appoint his Deputies, for whose conduct he shall be accountable, and he shall attend the Governor and Council, the Senate and House of Representatives, in person, or by his Deputies, as they shall respectively require. —

CHAPTER II.

Section V.

VOTING QUALIFICATIONS AND THE CENSUS.

We have grouped here, in the form of a new section, all of the present constitutional provisions relative to the qualifications for voters.

The original Constitution provided, in two separate places, for the qualifications of voters for Senators, Councillors, and Representatives, to wit: adult male residents, having a freehold with an annual income of three pounds, or any estate of sixty pounds (Ch. I, Sec. 2, Art. II, and Sec. 3, Art. IV.). These provisions were expressly made applicable to the election of Governor (Ch. II, Sec. 1, Art. III) and Lieutenant-Governor (Ch. II, Sec. 2, Art. I.).

Also, we have added the present provisions relative to the State census.

¹⁴⁰ I. Every male citizen of twenty one years of age and upwards, excepting paupers and persons under guardianship, and persons temporarily or permanently disqualified by law because of corrupt practices in respect to elections, who shall have resided within the Commonwealth one year, and within the town or district in which he may claim a right to vote, six calendar months next preceding any election of Governor, Lieutenant Governor, Senators or Representatives, shall have a right to vote in such election of Governor, Lieutenant Governor, Senators and Representatives; and no other person shall be entitled to vote in such elections.

Amendment III, adopted in 1821, abolished the property qualifications, substituted the requirement of paying a State or county tax, added a requirement of one year's residence in the Commonwealth and six months in the town or district, and disqualified paupers and persons under guardianship. This Amendment forms the basis of the above Article.

An educational qualification was added in 1857 by Amendment XX, printed below as Article II.

In 1859 Amendment XXIII was adopted, requiring naturalized citizens to reside in the United States two years after naturalization before being allowed to vote; but this was repealed in 1863, by Amendment XXVI.

In 1881, by Amendment XXVIII, United States soldiers and sailors were exempted from poverty and tax disqualifications; and this exemption was to some extent modified by Amendment XXXI, in 1890. In its present form it is printed below as Article III.

In 1890, by Amendment XXX, persons removing from one part of the State to another were permitted to vote at the old residence until they had stayed at the new the six months necessary to qualify them to vote there. This Amendment is printed below as Article IV.

In 1891 by Amendment XXXI the tax qualifications were stricken out of the above Article and in 1922 by Amendment XL a provision was added permitting the disqualification of voters for corrupt practices at elections.

¹⁶ II. No person shall have the right to vote, or be eligible to office under the Constitution of this Commonwealth, who shall not be able to read the Constitution in the English language, and write his name — provided, however, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who [had] the right to vote [on the first day of May, 1855.]

This is Amendment XX, adopted in 1857. We have stricken out, as being obsolete, the exception of persons then over sixty years of age, as such persons would now be over one hundred and twenty-two.

¹⁷ III. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town.

This is Amendment XXVIII, adopted in 1881, and modified by Amendment XXXI, in 1890. In its original form it exempted soldiers and sailors from two of the disqualifications of Amendment III (then printed as Const., Ch. II, Sec. 5, Art. I), namely, being a pauper; or, if a pauper, not paying a poll tax. In 1890 this was changed by striking out the words "being a pauper", and inserting in place thereof the words "receiving or having received aid from any city or town," and also by striking out the words "if a pauper."

The disqualification of not paying a tax was removed from all voters in 1891 (by Amendment XXXII), thus rendering obsolete the exemption of soldiers and sailors from this disqualification.

¹⁷ IV. No person, otherwise qualified to vote in elections for governor, lieutenant-governor, senators, and representatives, shall, by reason of a change of residence within the Commonwealth, be disqualified from voting in such elections in the city or town from which he has removed, until the expiration of six calendar months from the date of such removal.

This is Amendment XXX, adopted in 1922.

¹⁸⁵ V. Voting machines or other mechanical devices for voting may be used at all elections under such regulations as may be prescribed by law: *provided however*, that the right of secret voting shall be preserved.

This is Amendment XXXVIII, adopted in 1911.

¹⁶⁸ VI. A census of the [inhabitants] of each city and town shall be taken and returned into the office of the Secretary of the Commonwealth, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters; and in each city, said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators [and] representatives for the periods between the taking of the census.

This Article is based on the nearly identical provisions contained in Amendments XXI and XXII, adopted in 1857, omitting, however, the obsolete provisions for a census in 1857.

There were no census provisions in the original Constitution. The first provisions were those contained in Amendment XII, adopted in 1836, which provided for a decennial census of ratable polls as a basis for apportioning the Representatives. In 1840 Amendment XIII substituted a decennial census of inhabitants to determine the apportionment of both Senators and Representatives. Superseded by the above.

CHAPTER III.

JUDICIARY POWER.

¹⁰² I. THE tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this Constitution: Provided nevertheless, the Governor, with consent of the Council, may remove them upon the address of both Houses of the Legislature. —

¹⁰³ II EACH branch of the Legislature, as well as the Governor and Council, shall have authority to require the opinions of the Justices of the supreme judicial court, upon important questions of law, and upon solemn occasions. —

¹⁸⁴ III. IN order that the people may not suffer from the long continuance in place of any Justice of the Peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of Justices of the Peace shall expire and become void, in the term of seven years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another Person appointed, as shall most conduce to the well-being of the Commonwealth. —

¹⁴¹ Notaries Public shall be appointed by the Governor in the same manner as Judicial officers are appointed, & shall hold their offices during seven years, unless sooner removed.

¹⁸⁴ The governor, with the consent of the council, may remove Justices of the peace and notaries public

The first paragraph is the original Article. The second is Amendment IV, adopted in 1821, omitting, however, the provision for removal upon the address of the Legislature. The third is Amendment XXXVII, adopted in 1907.

¹⁰⁵ IV. THE Judges of probate of Wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require. And the Legislature shall from time to time, hereafter appoint such times and places; until which appointments, the said Courts shall be holden at the times and places which the respective Judges shall direct. —

¹⁰⁶ V. ALL causes of marriage, divorce, and alimony, and all appeals from the Judges of probate shall be heard and determined [as] the Legislature shall, by law, make provision. —

This Article originally provided for these causes to be heard by the Governor and Council, until the Legislature should make other provision. The Legislature has made other provision.

¹⁶⁶ VI. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe.

This is Amendment XIX, adopted in 1855. It originally included commissioners in insolvency, but this was stricken out by Amendment XXXVI, in 1894.

CHAPTER IV.
DELEGATES TO CONGRESS.

(Obsolete.)

This Chapter provided for the method of election of delegates to the Continental Congress. Superseded by U. S. Const., Art. I, Sec. IV, par. 1.

CHAPTER V.
THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE &c.

Section I.

THE UNIVERSITY.

¹⁰⁸ I. WHEREAS our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of God, been initiated in those arts and sciences, which qualified them for public employments, both in Church and State: And whereas the encouragement of arts and sciences, and all good literature, tends to the honor of God, the advantage of the christian religion, and the great benefit of this and the other United States of America — It is declared, That the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy: And the same are hereby ratified and confirmed unto them, the said President and Fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever. —

¹⁰⁹ II. AND whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and Fellows of Harvard College, or to the said College, by some other description, under several charters, successively: IT IS DECLARED: That all the said gifts, grants, devises, legacies and conveyances, are hereby forever confirmed unto the President and Fellows of Harvard

College, and to their successors in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, deviser or devisors. —

¹¹⁰ III. The Legislature of this Commonwealth [may make] such alterations in the government of the said University, as shall be conducive to its advantage, and the interest of the republic of Letters, in as full a manner as might have been done by the Legislature of the late Province of the Massachusetts Bay. —

This Article originally provided who should be the overseers of the University, but such provisions have been rendered obsolete by the frequent exercise of the aforementioned right.

CHAPTER V.

Section II.

THE ENCOURAGEMENT OF LITERATURE &C.

¹¹¹ WISDOM, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of Legislatures and Magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humour, and all social affections, and generous sentiments among the people. —

This Chapter is to some extent affected by the Anti-Sectarian Amendment, adopted in 1855 and here printed as the last paragraph of Article III of the Declaration of Rights.

CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND
EXCLUSION FROM OFFICES; PECUNIARY QUALIFI-
CATIONS; COMMISSIONS; WRITS; CONFIRMATION
OF LAWS; HABEAS CORPUS; THE ENACTING STILE;
CONTINUANCE OF OFFICERS; PROVISION FOR A
FUTURE REVISAL OF THE CONSTITUTION, &c. —

¹¹² I. ANY person chosen Governor, Lieutenant Governor, Counsellor, Senator, or Representative, and accepting the trust, as also any person appointed or commissioned to any judicial, executive, military, or other office under the Government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, Viz. —

¹⁴⁷ "I A. B. do solemnly swear that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So HELP ME, GOD."

¹⁴⁸ Provided, that when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word "swear" and inserting instead thereof the word "affirm;" and omitting the words "So HELP ME GOD," and subjoining, instead thereof, the words "this I do under the pains and penalties of perjury." —

¹¹⁷ "I, A, B, do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as:

according to the best of my abilities and understanding, agreeably, to the rules and regulations of the Constitution, and the laws of this Commonwealth — So HELP ME, GOD."

¹¹⁸ PROVIDED always, that when any person chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oath, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words "swear and," and the words "So help me GOD;" subjoining instead thereof, "This I do under the pains and penalties of perjury."

¹¹⁹ AND the said oaths or affirmations shall be taken and subscribed by the Governor, Lieutenant-Governor, and Counsellors, before the President of the Senate, in the presence of the two Houses of Assembly; and by the Senators and

Representatives first elected under this Constitution, before the President and five of the Council of the former Constitution; and forever afterwards before the Governor and Council for the time being: and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the Legislature. —

¹⁴⁹ No oath, declaration or subscription, excepting the oaths prescribed [herein], shall be required of the Governor, Lieutenant Governor, Counsellors, Senators or Representatives, to qualify them to perform the duties of their respective offices. —

This Article originally contained a declaration to be made by the Governor, Lieutenant-Governor, Counsellors, Senators and Representatives that they are Christians and possessed of sufficient property. This was abolished by Amendment VII, adopted in 1821, which is here printed as the last paragraph of the above Article.

This Article originally contained an elaborate oath of allegiance. The simpler one was substituted by Amendment VI, in 1821.

¹²⁰ II. No Governor, Lieutenant Governor, or Judge of the supreme judicial court, shall hold any other office or place, under the authority of this Commonwealth, except such as by this Constitution they are admitted to hold, saving that the Judges of the said court may hold the offices of Justices of the Peace through the State; nor shall they hold any other place or office, or receive any pension or salary from any other State or Government or Power whatever.—

¹²¹ No person shall be capable of holding or exercising at the same time, within this State more than one of the following offices, Viz. — Judge of Probate — Sheriff — Register of Probate — or Register of Deeds: AND never more than any two offices which are to be held by appointment of the Governor, or the Governor and Council, or the Senate, or the House of Representatives, or by the election of the people of the State at large, or of the people of any county, military offices and the offices of Justices of the peace excepted, shall be held by one person. —

¹²² No person holding the office of Judge of the Supreme Judicial Court — Secretary — Attorney-General — Solicitor-General — Treasurer or Receiver General — Judge of Probate — Commissary General — Sheriff — Clerk of the House of Representatives — Register of Probate — Register of Deeds — Clerk of the supreme Judicial Court — Clerk of the Inferior

Court of Common Pleas — or Officer of the Customs, including in this description Naval Officers — shall at the same time have a seat in the Senate or House of Representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their Seat in the Senate or House of Representatives; and the place so vacated shall be filled up. —

¹²³ AND the same rule shall take place in case any Judge of the said Supreme Judicial Court, or Judge of Probate, shall accept a seat in Council; or any Counsellor shall accept of either of those offices or places.

¹²⁴ AND no person shall ever be admitted to hold a seat in the Legislature, or any office of trust or importance under the Government of this Commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

¹⁵⁰ No Judge of any Court of this Commonwealth and no person holding any office under the authority of the United States (Postmasters excepted) shall, at the same time, hold the office of Governor, Lieutenant Governor, or Counsellor, or have a seat in the Senate or House of Representatives of this Commonwealth; and no Judge of any Court in this Commonwealth nor the Attorney General, Solicitor General, County Attorney, Clerk of any Court, Sheriff, Treasurer and Receiver General, Register of Probate, nor Register of Deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust by any of the officers aforesaid shall be deemed and taken to be a resignation of his said office; and Judges of the Courts of Common Pleas shall hold no other office under the government of this Commonwealth, the office of Justice of the Peace and militia offices excepted.

All except the last paragraph was contained in the original Article, which also included in the third paragraph, "president, professor or instructor of Harvard College." These were stricken out by Amendment XXVII, in 1877.

The last paragraph is Amendment VIII, adopted in 1821.

III. (Obsolete.)

This Article established the value of money as a basis for property qualifications. The abolition of property qualifications, by Amendments III, XIII and XXXIV, rendered this Article obsolete.

In its place might well be substituted the following fragment of Amendment X, adopted in 1831: "The political year shall begin on the First Wednesday of January."

¹²⁶ IV. ALL commissions shall be in the name of the Commonwealth of Massachusetts, signed by the Governor and attested by the Secretary or his Deputy, and have the great seal of the Commonwealth affixed thereto. —

¹²⁷ V. ALL writs issuing out of the Clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts: They shall be under the seal of the court from whence they issue: They shall bear test of the first Justice of the Court to which they shall be returnable, who is not a party, and be signed by the clerk of such court. —

¹²⁸ VI. ALL the laws which have heretofore been adopted, used and approved in the Province, Colony, or State of Massachusetts Bay, and usually practiced on in the courts of law, shall still remain and be in full force, until altered or repealed by the Legislature; such parts only excepted as are repugnant to the rights and liberties contained in this Constitution. —

¹²⁹ VII. THE privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this Commonwealth in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the Legislature, except upon the most urgent and pressing occasions, and for a limited time not exceeding twelve months. —

¹³⁰ VIII. THE enacting stile, in making and passing all acts, statutes and laws, shall be — "Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same" —

¹³¹ IX. To the end there may be no failure of Justice, or danger arise to the Commonwealth from a change of the Form of Government — all officers, civil and military, holding commissions under the Government and people of Massachusetts Bay in New England, and all other officers of the said government and people, at the time this Constitution shall take effect, shall have, hold, use, exercise and enjoy, all the powers and authority to them granted or committed, until other persons shall be appointed in their stead: And all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies and powers shall continue in full force, in the

enjoyment and exercise of all their trusts, employments and authority; until the General Court and the supreme and executive officers under this Constitution are designated and invested with their respective trusts, powers and authority. —

¹⁵¹ X. If at any time hereafter any specific and particular amendment or amendments to the Constitution be proposed in the General Court, and agreed to by a majority of the Senators and two thirds of the members of the House of Representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two Houses, with the yeas and nays taken thereon, and referred to the General Court then next to be chosen, and shall be published; and if, in the General Court next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the Senators and two thirds of the members of the House of Representatives present and voting thereon; then it shall be the duty of the General Court to submit such proposed amendment or amendments to the people: and if they shall be approved and ratified by a majority of the qualified voters voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the Constitution of this Commonwealth.

The original Article provided for a popular vote in 1795 on the expediency of a Constitutional Convention. The vote was adverse, and so this method of Amendment lapsed.

The first nine Amendments were made by popular vote, on submission by a Convention called in 1820 without any constitutional warrant.

The ninth of these Amendments is printed above.

¹³⁵ XI. THIS Form of Government shall be enrolled on parchment, and deposited in the Secretary's office, and be a part of the laws of the land — and printed copies thereof shall be prefixed to the book containing the laws of this Commonwealth, in all future editions of the said laws.

¹³⁶ THE foregoing is the Constitution or Frame of Government for the Commonwealth of Massachusetts, as agreed upon by the Delegates of the People of the said Commonwealth, submitted to the Revision of their Constituents, and by them approved, A D one thousand seven hundred & eighty; [and as thereafter amended; the whole being codified by the Commission to compile Information and Data for the Use of the Constitutional Convention of the year one thousand nine hundred & seventeen.]

APPENDIX A.

DISPOSITION OF AMENDMENTS.

In the preparation of this codified edition of the Constitution, the forty-four Amendments have been severally inserted in appropriate places in the main text. The following table shows what disposition has here been made of each of them:—

No. I. Adopted in 1821. Relative to the status of bills remaining before the Governor at the final adjournment of the General Court. Here inserted in Ch. I, Sec. I, Art. II.

No. II. Adopted in 1821. General Court empowered to charter cities. Here printed as Ch. I, Sec. I, Art. VIII.

No. III. Adopted in 1821. Voting qualifications. Materially affected by Amendments XX, XXVIII, XXX, XXXI, XXXII and XL. All are codified and printed as Ch. II, Sec. V.

No. IV. Adopted in 1821. Par. 1, relative to notaries public, as amended by Amendment XXXVII, is here inserted in Ch. III, Art. III. Par. 2 has been superseded by Amendment XVII. The last two paragraphs are here printed as parts of Ch. II, Sec. I, Art. X.

No. V. Adopted in 1821. Qualifications for voting for militia officers. Here inserted in Ch. II, Sec. I, Art. X.

No. VI. Adopted in 1821. Oath. Here substituted for the oath in Ch. VI, Art. I.

No. VII. Adopted in 1821. Oaths. Here added at the end of Ch. VI, Art. I. Also this abolishes the requirement that the Governor be a Christian, Ch. II, Sec. I, Art. II.

No. VIII. Adopted in 1821. Incompatibility of offices. Here inserted in Ch. VI, Art. II, as the last paragraph thereof.

No. IX. Adopted in 1821. Amendments to the Constitution. Here substituted for Ch. VI, Art. X.

No. X. Adopted in 1831. The political year. The part strictly relative thereto is here printed as Ch. VI, Art. III. The part relative to the sessions of the General Court is here codified into Ch. I, Sec. I, Art. I. The part relative to the term of office of the Governor, etc., is here added at the ends of Ch. II, Sec. I, Art. II; Ch. II, Sec. II, Art. I; and Ch. II, Sec. III, Art. II. Changes to conform other parts of the Constitution to the new political year have been made throughout.

No. XI. Adopted in 1833. Religious freedom. Here substituted for Art. III of the Declaration of Rights.

No. XII. Adopted in 1836. Apportionment of Representatives. Superseded by Amendment XIII.

No. XIII. Adopted in 1840. Apportionment and qualifications of Representatives, Senators, and Counsellors. Superseded by Amendments

XXI, XXII and XVI. Only the paragraph on qualifications is now in force. This has modified Ch. I, Sec. II, Art. V; Ch. I, Sec. III, Art. III; Ch. II, Sec. III, Art. II.

No. XIV. Adopted in 1855. Plurality vote. Changes, to conform various parts of the Constitution to the plurality vote, have been made throughout.

No. XV. Adopted in 1855. Time of annual election. Changes, to conform various parts of the Constitution to this election date, have been made throughout.

No. XVI. Adopted in 1855. Election of Counsellors and organization of the government. Here substituted for Ch. II, Sec. III, Art. II, and added to Art. VII, respectively. Art. I modified so as to conform to eight Counsellors. The provisions for counsellor districts are affected by Amendment XXII, which renders part obsolete. The provisions for filling vacancies were superseded by Amendment XXV.

No. XVII. Adopted in 1855. Election of secretary, etc. Here inserted in Ch. II, Sec. IV, Art. I.

No. XVIII. Adopted in 1855. Support of schools. Here added to the end of Art. III of the Declaration of Rights.

No. XIX. Adopted in 1855. Election of certain judicial officers. Commissioners of insolvency stricken out by Amendment XXXVI. The rest is here printed as Ch. III, Art. VI.

No. XX. Adopted in 1857. Voting qualifications. Printed here as Ch. II, Sec. V, Art. II.

No. XXI. Adopted in 1857. Census and representative districts. Census provisions are duplicated by those in the next Amendment. Here inserted in Ch. II, Sec. V, Art. VI. District provisions here substituted for part of Ch. I, Sec. III, Art. II. Quorum provision has been superseded by Amendment XXXIII.

No. XXII. Adopted in 1857. Census and senatorial districts. See preceding Amendment on disposition of census provisions. District provisions substituted for Ch. I, Sec. II, Art. I. Quorum provision has been superseded by Amendment XXXIII.

No. XXIII. Adopted in 1859. Restricting the right of naturalized citizens to vote. Annulled by Amendment XXVI.

No. XXIV. Adopted in 1860. Vacancies in the Senate. Here substituted for a part of Ch. I, Sec. II, Art. IV.

No. XXV. Adopted in 1860. Vacancies in the Council. Here substituted for a part of Amendment XVI, the whole being then substituted for Ch. II, Sec. III, Art. II.

No. XXVI. Adopted in 1863. Annuls Amendment XXIII, which restricted the voting rights of naturalized citizens.

No. XXVII. Adopted in 1877. Annuls so much of Ch. VI, Art. II, as required oaths of officers of Harvard College.

No. XXVIII. Adopted in 1881. Voting rights of United States soldiers and sailors. Amended by Article XXXI, the whole being here inserted as Ch. II, Sec. V, Art. III.

No. XXIX. Adopted in 1885. Voting precincts in towns. Here printed as Ch. I, Sec. I, Art. IX.

No. XXX. Adopted in 1890. Voter moving may vote at old residence for six months. Here printed as Ch. II, Sec. V, Art. IV.

No. XXXI. Adopted in 1890. Voting rights of United States soldiers and sailors. Amends Amendment XXVIII, which is here printed as Ch. II, Sec. V, Art. III.

No. XXXII. Adopted in 1891. Strikes the tax qualification for voters out of Amendment III, which is here printed as Ch. II, Sec. V, Art. I.

No. XXXIII. Adopted in 1891. Quorum for Senate and House. Substituted for the original provisions in Ch. I, Sec. II, Art. IX, and Sec. III, Art. IX.

No. XXXIV. Adopted in 1892. Abolishes the property qualification for Governor in Ch. II, Sec. I, Art. II.

No. XXXV. Adopted in 1893. Annuls the provision for traveling expenses of Representatives in Ch. I, Sec. III, Art. II.

No. XXXVI. Adopted in 1894. Strikes "commissioners of insolvency" from Amendment XIX, which is here printed as Ch. III, Art. VI.

No. XXXVII. Adopted in 1907. Removal of justices and notaries. Here inserted in Ch. III, Art. III.

No. XXXVIII. Adopted in 1911. Voting machines. Here printed as Ch. II, Sec. V, Art. V.

No. XXXIX. Adopted in 1911. Adds to Art. X of the Declaration of Rights a provision for excess takings of land for highway construction.

No. XL. Adopted in 1912. Permits disfranchisement of persons convicted of corrupt practices. Here inserted in Ch. II, Sec. V, Art. I.

No. XLI. Adopted in 1912. Taxation of wild and forest lands. Here printed as Ch. I, Sec. I, Art. V.

No. XLII. Adopted in 1913. Permits the Legislature to refer statutes to a popular vote. Here printed as Ch. I, Sec. I, Art. VII.

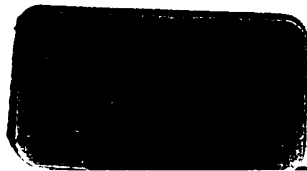
No. XLIII. Adopted in 1915. Taking of land for homesteading. Here added to the end of Art. X of the Declaration of Rights.

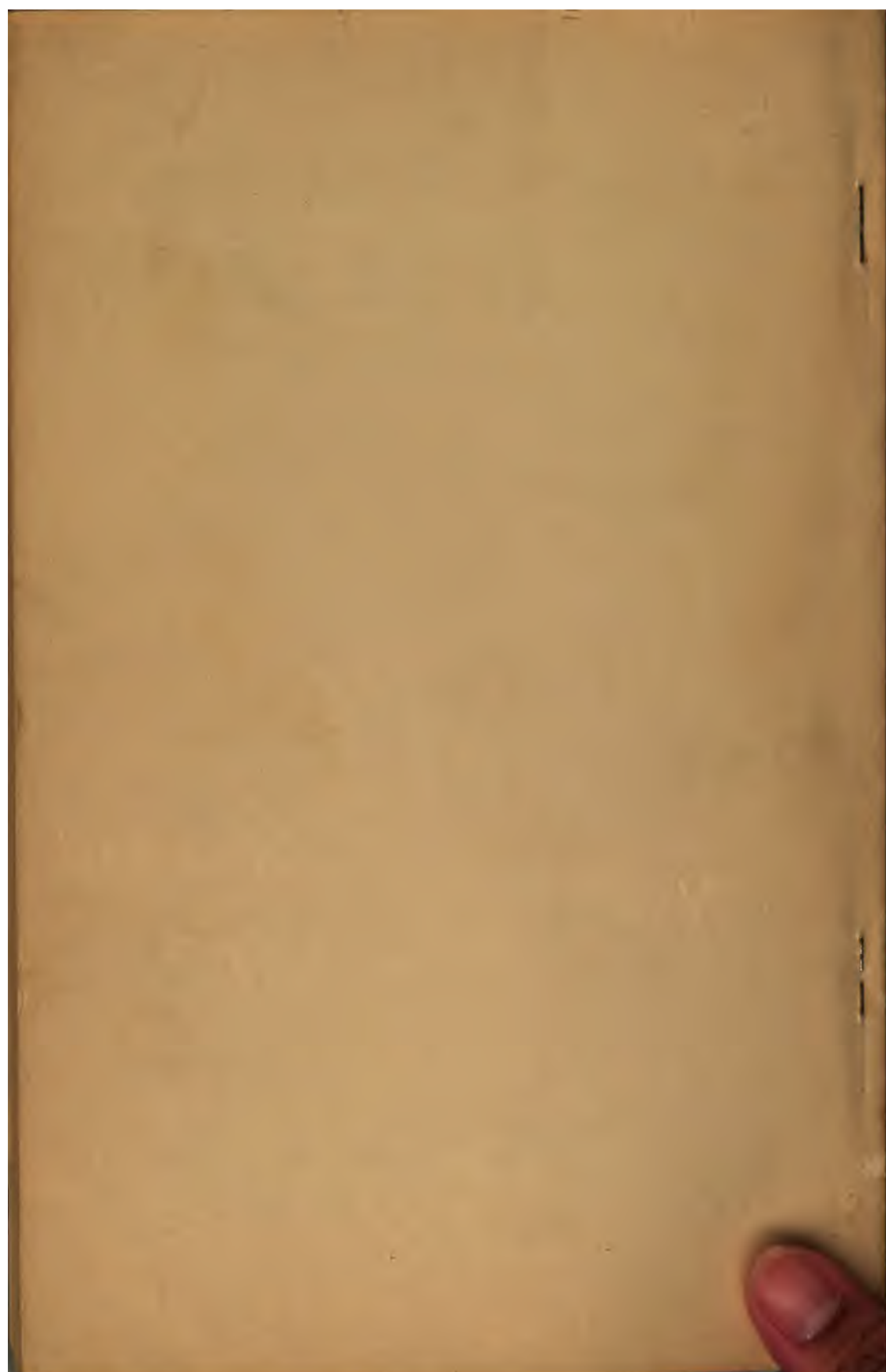
No. XLIV. Adopted in 1915. Authorizes an income tax. Here printed as Ch. I, Sec. I, Art. VI.

APPENDIX B.

TWO FORMER CODIFICATIONS.

Debates in Massachusetts Convention of 1853, Vol. III, pp. 739-751.
J. Nelson Trask. "Adjusted Constitution of Massachusetts." Boston, 1884.





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CONVENTION No. 369

[Document No. 367 as ordered to a third reading.]

The Commonwealth of Massachusetts.

CONSTITUTIONAL CONVENTION, *1917-1918.*

In the Year One Thousand Nine Hundred and Seventeen.

RESOLUTION

To provide for establishing the Popular Initiative and Referendum.

DEFINITION.

1 Legislative power shall continue to be vested in the
2 general court, subject to the provisions of the Constitu-
3 tion; but the people reserve to themselves the popular
4 initiative, which is the power of a certain number of
5 voters to submit laws and amendments to the Constitu-
6 tion to the people for enactment, adoption or rejection
7 at the polls; and the popular referendum, which is the
8 power of a certain number of voters to submit laws,
9 enacted by the general court, to the people for their
10 ratification or rejection at the polls. The power of
11 initiative and referendum shall be exercised as herein-
12 after provided.

AMENDMENTS TO THE CONSTITUTION.

13 If a proposal for a specific amendment of the Constitu-
14 tion is introduced into the general court by initiative
15 petition signed by not less than twenty-five thousand
16 qualified voters in the manner herein provided, or if in
17 case of a proposal for amendment introduced into the
18 general court without such initiative petition, authority
19 for which mode of introduction is hereby specifically
20 granted and continued, consideration thereof in joint
21 session is called for by vote of either house, such pro-
22 posal shall, not later than the second Wednesday in
23 June, be laid before a joint session of the two houses,
24 at which the president of the senate shall preside; and if
25 the two houses fail to agree upon a time for holding any
26 joint session hereby required, or fail to continue the
27 same from time to time until final action has been taken
28 upon all amendments pending, the governor shall call
29 such joint session or continuance thereof. Final legis-
30 lative action upon any amendment shall be taken only
31 by call of the yeas and nays, which shall be entered
32 upon the journals of the two houses; and an unfavor-
33 able vote at any legislative stage preceding final action
34 shall be verified by call of the yeas and nays, to be
35 entered in like manner. An amendment introduced by
36 initiative petition shall be voted upon in the form in
37 which it was introduced, provided that such amendment
38 may be amended in any manner not inconsistent with
39 its general purpose by vote of three-quarters of the
40 members voting thereon in joint session.

41 An amendment introduced by initiative petition shall
42 be designated an initiative amendment, and an amend-
43 ment otherwise introduced shall be designated a legis-
44 lative amendment. At such joint session, if a legislative

45 amendment shall be agreed to by a majority of all the
46 members elected to the general court, or if an initiative
47 amendment shall receive the affirmative votes of not
48 less than one-quarter of all the members elected to the
49 general court, in either case such amendment shall be
50 deemed to be referred to the next general court.

51 If any legislative amendment shall again be agreed to
52 by a majority of all the members elected to the next
53 general court, voting in a joint session of the two houses
54 to be held as aforesaid, it shall then be submitted by the
55 general court to the people. If any initiative amend-
56 ment shall again receive in the next general court the
57 affirmative votes of at least one-quarter of all the mem-
58 bers elected, such fact shall be certified by the clerk of
59 such joint convention to the secretary of the Common-
60 wealth and he shall submit the amendment to the
61 people at the next state election. Any amendment so
62 submitted shall be adopted and become part of the Con-
63 stitution if approved in the case of a legislative amend-
64 ment by a majority of the voters voting thereon, or if
65 approved in the case of an initiative amendment by
66 voters at least equal in number to thirty per cent of the
67 voters voting at such election and also by a majority of
68 the voters voting on such amendment.

69 Article IX of the amendments to the Constitution is
70 hereby annulled.

71 Provided, however, that no amendment to the consti-
72 tution relating to religion, religious practices or religious
73 institutions shall be the subject of an initiative petition.

74 No part of the constitution specifically excluding any
75 matter from the operation of the popular initiative and
76 referendum shall be the subject of an initiative petition.

LAWS.

77 If an initiative petition for a law is introduced into
78 the general court in the manner hereinafter provided,
79 signed by not less than twenty thousand qualified
80 voters of the Commonwealth, a vote shall be taken by
81 yeas and nays in both branches of such general court
82 before the first Wednesday of June upon the enactment
83 of such law in the form in which it stands in such
84 initiative petition, and if the general court into which it
85 is introduced fails to enact such law before the first
86 Wednesday of June; and if such initiative petition is
87 completed by filing with the secretary of the Common-
88 wealth, not earlier than the first Wednesday of the
89 following July nor later than the first Wednesday of the
90 following August, not less than five thousand signatures
91 of such qualified voters, in addition to those signing
92 such initiative petition, obtained after the first Wednes-
93 day of June aforesaid, then the secretary of the Com-
94 monwealth shall submit such proposed law to the people
95 at the next state election; and if it shall be approved by
96 a majority of the qualified voters voting thereon, pro-
97 vided that, for any law proposed under this section, the
98 affirmative vote shall not be less than thirty per cent of
99 the highest number of votes cast at such state election,
100 such proposed law shall become law, and shall take
101 effect in thirty days after such state election or at such
102 time after such election as may be provided in such
103 law: *provided*, that the limitations of the legislative
104 power of the general court in the Constitution shall ex-
105 tend to the legislative power of the people as exercised
106 hereunder.

107 The same measure, either in form or essential sub-
108 stance, shall not be made the subject of an initiative

109 petition (either affirmatively or negatively) oftener than
110 once in three years. The attorney-general shall certify
111 before an initiative petition is filed that the measure
112 petitioned for is not, either in form or in essential sub-
113 stance, either affirmatively or negatively, the same as
114 any measure which has been submitted to the people
115 within three years of such date.

CONFLICTING AND ALTERNATIVE MEASURES.

116 The general court may by resolve passed by yea and
117 nay vote, either by the two houses sitting separately, or
118 in the case of a constitutional amendment by a majority
119 of those present and voting thereon in joint convention
120 held as herein provided, provide for the submission to
121 the people of a substitute for any measure introduced
122 by initiative petition which has been or may be passed
123 or qualified for submission to the people as herein pro-
124 vided, the same to be designated on the ballot as the
125 legislative substitute for such an initiative measure and
126 to be grouped with the same as an alternative therefor:
127 *provided*, that any such legislative substitute for a con-
128 stitutional amendment shall be passed as above pro-
129 vided in each of the years in which such constitutional
130 amendment is passed.

131 In case in any judicial proceeding any provisions of
132 two or more constitutional amendments, or of two or
133 more laws, approved by the people at the same election,
134 are held to be in conflict with each other, then the
135 provisions contained in the constitutional amendment,
136 or in the law, as the case may be, which received the
137 largest number of affirmative votes at such election shall
138 be deemed to govern.

139 The provisions of a constitutional amendment ap-
140 proved at any election shall apply to any law approved

141 at the same election in the same manner as if such
142 amendment had been in force prior to such election.

143 The general court by resolve passed as aforesaid may
144 provide for grouping and designating upon the ballot
145 either as conflicting measures or as alternative measures,
146 only one of which is to be adopted, any two or more
147 proposed constitutional amendments, or any two or
148 more proposed laws, which have been or may be passed
149 or qualified for submission to the people at any one
150 election, under the provisions of this amendment or
151 otherwise: *provided*, that a proposed constitutional
152 amendment and a proposed law shall not in any case be
153 so grouped, and that the ballot shall afford an oppor-
154 tunity to the voter to vote for each of the measures or
155 for only one of the measures, as may be provided in said
156 resolve, or against each of the measures so grouped as
157 conflicting or as alternatives. In case more than one of
158 the measures so grouped shall receive the vote required
159 for its approval as herein provided, only that one of the
160 same for which the largest affirmative vote was cast
161 shall be deemed to be approved.

INITIATIVE PETITION.

162 An initiative petition shall set forth the full text of
163 the proposed constitutional amendment or law, herein-
164 after designated as the measure, which is the subject of
165 the petition. Such petition shall first be signed by ten
166 qualified voters of the Commonwealth and shall then
167 be filed with the secretary of the Commonwealth, who
168 shall provide blanks for the use of subsequent signers:
169 *provided*, that no initiative petition shall be so filed until
170 it has been submitted to the attorney-general and the
171 constitutional amendment or law which is the subject
172 of the petition has been certified by the attorney-general

173 to be in proper form for submission to the people. The
174 secretary of the Commonwealth shall print at the top of
175 each blank a description of the proposed measure as it
176 will appear on the ballot and the names and residences
177 of the first ten signers. A filing fee not exceeding one
178 hundred dollars which shall be returned if and when the
179 petition is completed, may be required by law. All
180 initiative petitions, with the first ten signatures at-
181 tached, shall be filed with the secretary of the Common-
182 wealth not earlier than the first Wednesday of the
183 September before the assembling of the general court
184 into which it is to be introduced, and the remainder of
185 the required signatures shall be filed not later than the
186 first Wednesday of the following December.

187 If an initiative petition, signed by the required num-
188 ber of qualified voters, has been filed with the secretary
189 of the Commonwealth as aforesaid, he shall, upon the
190 assembling of the general court, transmit such petition
191 to the clerk of the house of representatives, and the pro-
192 posed measure which is the subject of such petition
193 shall then be deemed to be introduced into that general
194 court and pending in the house of representatives.

195 If the general court fails to pass a proposed law before
196 the first Wednesday of June, the first ten signers of the
197 initiative petition therefor, or a majority of them, shall
198 have the right, subject to certification by the attorney-
199 general filed as hereinafter provided, to amend the
200 measure which is the subject of such petition. An
201 amendment so made shall not invalidate any signature
202 attached to the petition. If the measure so amended,
203 signed by such first ten signers or a majority of them, is
204 filed with the secretary of the Commonwealth before
205 the first Wednesday of the following July, together with
206 a certificate signed by the attorney-general to the effect

207 that the amendment made by such proposers is in his
208 opinion perfecting in its nature and does not materially
209 change the substance of the measure, then the secretary
210 of the Commonwealth shall submit the measure to the
211 people in its amended form; in case of failure to file
212 such amended measure, together with such certificate, he
213 shall submit the measure in its original form.

EXCLUDED MATTERS.

214 No law, the operation of which is restricted to a
215 particular town, city or other political division or to
216 particular districts or localities of the Commonwealth,
217 and no law relating to religion, religious practices or
218 religious institutions, and no law making a specific
219 appropriation of money from the treasury of the Com-
220 monwealth shall be the subject of such initiative petition:
221 *provided*, that, if a law approved by the people is not
222 repealed, the general court shall raise by taxation or
223 otherwise and shall appropriate such money as may be
224 necessary to carry such law into effect.

225 No law or amendment to the Constitution relating to
226 the appointment, qualification, tenure, or removal or
227 compensation of judges; or relating to the recall of
228 judges or judicial decisions; or relating to the powers,
229 creation or abolition of courts, shall be the subject of
230 such initiative petition.

231 No proposed law shall contain unrelated subjects.

REFERENDUM.

232 No law passed by the general court shall take effect
233 earlier than ninety days after it has become a law,
234 excepting laws declared to be emergency measures and
235 laws which may not be made the subject of a referen-
236 dum petition, as hereinafter provided.

EMERGENCY MEASURES.

237 . A law declared to be an emergency measure shall con-
238 tain a preamble setting forth the facts constituting the
239 emergency, and shall contain the statement that such
240 law is necessary for the immediate preservation of the
241 public peace, health, safety or convenience. A separate
242 vote shall be taken on the preamble of such law by a
243 call of the yeas and nays, which shall be recorded, and
244 unless the preamble is adopted by two-thirds of the
245 senators and two-thirds of the members of the house of
246 representatives present and voting thereon, the law shall
247 not be an emergency measure: *provided*, that the
248 governor may, at any time before the election at which
249 it is to be submitted to the people on referendum, de-
250 clare any law to be an emergency measure hereunder by
251 filing with the secretary of the commonwealth a state-
252 ment setting forth the facts constituting the emergency,
253 and that in his opinion the immediate preservation of
254 the public peace, health, safety or convenience require
255 that such law should go into operation forthwith, then
256 such law, if not previously suspended as hereinafter pro-
257 vided, shall take effect without suspension, or if such
258 law has been so suspended such suspension shall there-
259 upon terminate and such law shall thereupon go into
260 effect: and *provided, further*, that no grant of any fran-
261 chise or amendment thereof, or renewal or extension
262 thereof for more than one year, shall be declared to be
263 an emergency measure.

SUBMISSION UPON REFERENDUM.

264 A referendum petition may ask for a referendum to
265 the people upon any law enacted by the general court
266 which is not an emergency measure as above defined.

267 Such petition shall first be signed by ten qualified voters
268 of the Commonwealth, and shall then be filed with the
269 secretary of the Commonwealth not later than thirty
270 days after the law which is the subject of the petition
271 has become law, and the secretary of the Common-
272 wealth shall provide blanks for the use of subsequent
273 signers. He shall print at the top of each blank a
274 description of the proposed law as it will appear on
275 the ballot and the names and residences of the first ten
276 signers. If such petition filed as aforesaid is completed
277 by filing with the secretary of the Commonwealth not
278 later than ninety days after the law which is the subject
279 of the petition has become law the signatures to such
280 petition of not less than five per cent of such qualified
281 voters of the Commonwealth, calculated upon the whole
282 number of votes cast for governor at the last preceding
283 election, asking for a referendum on such law, and re-
284 questing that the operation of such law be suspended,
285 then the operation of such law shall be suspended, and
286 the secretary of the Commonwealth shall submit such
287 law to the people at the next state election, if thirty
288 days intervene between the date when such petition is
289 filed with the secretary of the Commonwealth and the
290 date for holding such state election; if thirty days do
291 not so intervene then such law shall be submitted to the
292 people at the next following state election, unless in the
293 meantime such law shall have been repealed; and if
294 such law shall be approved by a majority of the qualified
295 voters voting thereon, such law shall, subject to the pro-
296 visions of the Constitution, take effect in thirty days
297 after such election, or at such time after such election as
298 may be provided in such law; if not so approved such
299 law shall be null and void: *provided*, that no such law
300 shall be held to be disapproved if the negative vote is

301 less than thirty per cent of the highest number of votes
302 cast at such state election.

303 In case of an emergency measure or of a law which
304 takes effect because the referendum petition does not
305 contain a request for suspension, as aforesaid, if, within
306 ninety days after its final enactment, a petition is filed
307 with the secretary of the Commonwealth, signed by not
308 less than ten thousand qualified voters of the Common-
309 wealth, protesting against such law and asking for a
310 referendum thereon, then the secretary of the Common-
311 wealth shall submit such law to the people at the next
312 state election, if thirty days intervene between the date
313 when such petition is filed with the secretary of the
314 Commonwealth and the date for holding such state elec-
315 tion; if thirty days do not so intervene then such law
316 shall be submitted to the people at the next following
317 state election, unless in the meantime such law shall
318 have been repealed; and if such law shall not be ap-
319 proved by a majority of the qualified voters voting
320 thereon, such law shall, at the expiration of thirty days
321 after such election, be thereby repealed: *provided*, that
322 no such law shall be held to be disapproved if the
323 negative vote is less than thirty per cent of the highest
324 number of votes cast at such state election.

EXCLUDED MATTERS.

325 No law, appropriating money for the current or ordi-
326 nary expenses of the Commonwealth or for any of its
327 departments, boards, commissions or institutions, and
328 no law relating to religion, religious practices or religious
329 institutions, and no law, the operation of which is
330 restricted to a particular town, city or other political
331 division or to particular districts or localities of the

332 Commonwealth, shall be the subject of such referendum
333 petition.

334 No law relating to the appointment, qualification,
335 tenure or removal or compensation of judges, or re-
336 lating to the powers, creation or abolition of courts, shall
337 be the subject of such referendum petition.

GENERAL PROVISIONS.

338 If a measure is introduced in the general court by
339 initiative petition, the same shall be referred to a com-
340 mittee thereof, and the petitioner and all parties in
341 interest shall be duly heard, and the measure shall be
342 duly considered and reported upon to the general court
343 with the committee's recommendations, with the reason
344 therefor, in writing. The majority and minority re-
345 ports, if there be such, shall be signed by the majority
346 and minority members of said committee, respectively,
347 and the final action of the general court upon any such
348 measure shall be taken by a yea and nay vote.

349 Provision for the proper identification and certification
350 of signatures to the petitions hereinbefore referred to,
351 for the signing or refusing to sign any such petition for
352 money or other valuable consideration and for the
353 forgery of signatures thereto shall be made by law, and
354 pending the passage of such legislation all provisions of
355 law relating to the identification and certification of
356 signatures to petitions for the nomination of candidates
357 for state offices or to penalties for the forgery of such
358 signatures shall apply to the signatures to the petitions
359 herein referred to. The general court may provide by
360 law that no copartnership or corporation shall circulate
361 petitions for hire or reward, may require individuals to
362 be licensed and may make other reasonable regulations

363 to prevent abuses arising from the circulation of pe-
364 titions for hire or reward.

365 Not more than one-fourth of the certified signatures
366 on any petition shall be those of registered voters of any
367 one county.

368 Each proposed amendment to the Constitution, and
369 each law submitted to the people, shall be described on
370 the ballots by a description to be determined by the
371 attorney-general, subject to such provision as may be
372 made by law, and the secretary of the Commonwealth
373 shall give each question a number and cause such ques-
374 tion to be printed on the ballot in accordance with the
375 following provisions: —

376 In the case of an amendment to the Constitution:
377 Shall an amendment to the Constitution (here insert
378 description, and state, in distinctive type,

YES.	
NO.	

379 whether approved or disapproved by the
380 general court, and by what vote thereon)
381 be approved?

382 In the case of a law: Shall a law (here insert descrip-
383 tion, and state, in distinctive type, whether

YES.	
NO.	

384 approved or disapproved by the general
385 court, and by what vote thereon) be ap-
386 proved?

387 The secretary of the Commonwealth shall cause to be
388 printed and sent to each registered voter in the Com-
389 monwealth the full text of every measure to be submit-
390 ted to the people, together with a copy of the legislative
391 committee's majority and minority reports, if there be
392 such, with the names of the majority and minority
393 members thereon, a statement of the votes of the gen-
394 eral court on the measure, and a description of the
395 measure as it will appear on the ballot; and shall, in
396 such manner as may be provided by law, cause to be

397 prepared and sent to the voters information and argu-
398 ments thereon.

399 The veto power of the governor shall not extend to
400 measures approved by the people.

401 Subject to the veto power of the governor and to the
402 right of referendum by petition as herein provided, the
403 general court may amend or repeal a law approved by
404 the people.

405 This article of amendment to the Constitution is self-
406 executing but legislation not inconsistent with anything
407 herein contained may be enacted to facilitate the opera-
408 tion of its provisions.

409 Article XLII of the amendments of the Constitution
410 is hereby repealed.

100

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- V. Conclusion
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the following arrangement. The f1
369, and can be used as a guide to
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